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THE UNITED NATIONS SECURITY COUNCIL VETO  
IN THE NEW WORLD ORDER

A Thesis

Presented to

The Judge Advocate General's School, United States Army

The opinions and conclusions expressed herein are those of the author and do not necessarily represent the views of either The Judge Advocate General's School, The United States Army, or any other governmental agency.

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40TH JUDGE ADVOCATE OFFICER GRADUATE COURSE

April 1992

Published: 138 Mil. L. Rev. 187 (1992)

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IN THE NEW WORLD ORDER

by Major Keith L. Sellen

ABSTRACT: The United States should move to replace the Security Council veto with a double majority voting method. United States' national security will improve as international security improves. International security will improve as the Security Council acts effectively. The Security Council will act more effectively as it becomes more authoritative. Promoting respect for the Council and a veto alternative are necessary to make the Council more authoritative. The double majority voting method best promotes Council authority.

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THE UNITED NATIONS SECURITY COUNCIL VETO  
IN THE NEW WORLD ORDER

A new world order is not a fact; it is an aspiration -and an opportunity. We have within our grasp an extraordinary possibility that few generations have enjoyed -to build a new international system in accordance with our own values and ideals, as old patterns and certainties crumble around us.<sup>1</sup>

The thing that hath been, it is that which shall be; and that which is done is that which shall be done: and there is no new thing under the sun.<sup>2</sup>

I. INTRODUCTION.

Recent world events -the fall of the Berlin wall, demise of communism, victory against Saddam Hussein, and withering away of the Soviet state- present an opportunity to structure a new world order. The Cold War and its bipolar international security system are over. The international political climate has changed, as the coalition victory against Iraq illustrated.<sup>3</sup> As nations plan this new world order, they must consider

the role of the United Nations Security Council.<sup>4</sup> Although Cold War politics hindered the Council, now it can become effective in maintaining international peace and security. To make it more effective, the members should eliminate the permanent member veto.

This time of good will presents not only the opportunity, but also the necessity to improve the Council. The Cold War victory celebration will pass, but security problems will continue.<sup>5</sup> The common enemy which glued the free world's alliances is gone.<sup>6</sup> In time, conflicts will develop and hinder efforts to improve the Council, as they did after World War II.<sup>7</sup> Additionally, diminishing United States influence will change the international security system.<sup>8</sup> These factors make the old international security structure obsolete and a new structure necessary.<sup>9</sup> While the Council can be an effective security organization today,<sup>10</sup> this is so only if it reflects political realities and engenders respect.

While we must seek to improve the Council, the task will not be easy. The Preacher is right, despite our unique world situation, to say there is nothing new. Improving the Council requires permanent members to

commit themselves to future Council decisions. This presents a classic prisoners' dilemma.<sup>11</sup> They recognize that collective security requires a commitment to abide by the collective will, but also face the need to protect their own sovereignty.<sup>12</sup> Because these interests may conflict, they will remain wary.<sup>13</sup>

This dilemma arises whenever states consider a collective security organization. The Hague Conference of 1899 tried to reduce armaments. After meeting for over ten weeks, the members refused to commit to any reductions.<sup>14</sup> The Conference did establish the Permanent Court of Arbitration, but excepted from its jurisdiction all significant cases.<sup>15</sup> In 1918, Nicaragua would not renew the Central American Court of Justice Treaty "because two decisions . . . were adverse to her."<sup>16</sup> Decisions in the League of Nations required unanimity,<sup>17</sup> which protected each member from the collective will. The United Nations Charter obligates all states to follow Council decisions; but the veto excuses the permanent members.<sup>18</sup>

Eliminating the veto also presents this dilemma. The permanent members (United States, Great Britain,



China, France, and Soviet Union) reserved a veto to preserve their own interests.<sup>19</sup> The United States government feared the Senate would not consent to membership without the veto.<sup>20</sup> The Soviets feared that the western powers would outvote them.<sup>21</sup> At the United Nations conference in San Francisco, delegates strongly criticized the veto.<sup>22</sup> Nevertheless, the permanent members defended it, and demanded its acceptance.<sup>23</sup>

Because self-interest persists, the veto will be both difficult to live with and difficult to change. Despite recent international cooperation, "[t]here is no reason to suppose that the present period of global harmony will continue indefinitely; when the harmony ceases, the political machinery, unchanged, will prove to be just as inadequate as during the cold war."<sup>24</sup> Because the veto protects their self-interests, the permanent members will be reluctant to give it up.

In summary, today we face new and old: new opportunities arising from the Cold War's end, and old familiar choices between self-interest and collective interest. We recognize that both the veto and its elimination are problems. We can accept the status quo, but do better to seek improvement.

Future generations may not readily forgive us for neglecting this opportunity. . . . The world will certainly miss the boat if it does not use the end of the cold war to create a global system for the new millennium, one which preserves peace, fosters economic growth, and prevents the deterioration of the human physical and environmental condition.<sup>25</sup>

To improve the Council, we should replace the veto with a double majority voting method. This means a concurrence of a majority of the Council and a majority of the permanent members. Realistically, this will happen only when member states respect the Council's effectiveness and fairness.

Therefore, member states should promote respect for the Council, and replace the veto with a double majority voting method. Both are necessary if law will rule the community. Because the United States benefits from improved international security, it should agree to replace the veto. This is especially important now, because the future will likely see less United States' influence in international politics.

To support this position, I will argue the

following. First, United States security improves as international security improves. Second, international security improves as the Council acts more effectively. Third, the Council acts more effectively as it becomes more authoritative; that is, as it operates without the veto. Fourth, eliminating the veto is in the United States' best interests. Fifth, a double majority voting method is the best way to make the Council more authoritative, considering its purpose and the international community's needs.

## II. UNITED STATES NATIONAL SECURITY IMPROVES AS INTERNATIONAL SECURITY IMPROVES.

### A. Peace and Security are Indivisible.

To say that United States national security improves as international security improves is to say that security is indivisible. Indivisibility means a security threat anywhere is a security threat everywhere; that one cannot classify any threat as purely national or international. This is true because our world is ever-shrinking.

This has long been clear. Kant stated, "[t]he intercourse . . . which has been everywhere steadily increasing between the nations of the earth, has now

extended so enormously that a violation of right in one part of the world is felt all over it . . ."<sup>26</sup> In 1939, the isolationist Neville Chamberlain asserted that the fight was for "peace and security for the peoples of the world."<sup>27</sup> In 1945, the United Nations' founders believed security was indivisible. The international community has no interest in collective security unless security is indivisible.<sup>28</sup> Yet, the founders established a collective security structure.<sup>29</sup>

The international community continually grows closer through improved communications, increased economic interdependence, increased reliance on collective security, integration of ideas, and growing membership in international organizations.<sup>30</sup> This integration removes "the insulation from the rest of the world that geographical distance used to provide, making isolationism impractical."<sup>31</sup>

The United States recognizes that its security depends on international security. "In the 1920's . . . the Nation turned inward. That course had near disastrous consequences then and it would be even more dangerous now. At a time when the world is far more interdependent - economically, technologically,

environmentally - any attempt to isolate ourselves militarily and politically would be folly."<sup>32</sup>

As it would be folly to ignore security threats abroad, it would be folly not to lead the world toward improved security. Therefore, the National Security Strategy states: "[a]s we move toward the 21st century, this interdependence of peoples will grow and will continue to demand responsible American leadership. Guided by the values that have inspired and nurtured our democracy at home, we will work for a new world . . ."<sup>33</sup>

B. Current Security Threats are Indivisible.

Indivisibility is a fact. Security threats are never purely national or international, but always both to a greater extent every day. Today's security threats -fragmentation, regional competition, drug trafficking, terrorism, arms proliferation, and economic competition- demonstrate this.

1. Fragmentation.

Today "[t]here are . . . forces of fragmentation at work that are resurrecting old barriers between nations and peoples -- and creating new ones. . ."<sup>34</sup> They appear as nationalism, protectionism, racial tension,

and religious tension.<sup>35</sup> Fragmentation, as we see in the former Soviet Union, Yugoslavia, and South Africa, creates security risks for the United States and international community.

The first risk involves competition between fragmenting factions. During Gorbachev's attempt to keep the Soviet Union together, he warned, "[w]ithout the union, there will be an eternal erosion of our society as a whole . . . The disintegration will even be fraught with wars."<sup>36</sup> Russia and Ukraine have argued over ownership of the Black Sea Fleet, raising fears of an ethnic war.<sup>37</sup> The former republics have significant border disputes with each other.<sup>38</sup> Russia and Ukraine are beginning to erect trade barriers,<sup>39</sup> and fight over control of nuclear weapons.<sup>40</sup>

This competition is indivisible for three reasons. First, the potential that nuclear weapons might be used in conflicts between former republics threatens the whole world.<sup>41</sup> Damage from fallout or misfirings, and the precedence of their use impact well beyond the old Soviet borders. Second, the related risk of "brain drain" is a real threat. This would "enable Third World countries to expand their military capabilities

in coming years."<sup>42</sup> Already, Libya has attempted to recruit Russian nuclear scientists.<sup>43</sup> Third, competition between factions can spill over into other states. Fragmentation in Yugoslavia has threatened Greece.<sup>44</sup>

The second risk involves the power vacuum that fragmentation creates. Neighboring states compete for the influence that the central authority held. Such a vacuum exists in the former Soviet Union, where Turkey and Iran are competing for influence among the Islamic republics.<sup>45</sup>

The third risk involves human rights violations. Democratic self-determination "does not guarantee human rights."<sup>46</sup> The civil war in Yugoslavia has seen over ten thousand people die.<sup>47</sup> Serbians are fighting to create an autonomous enclave for Serbs living in Croatia, and repressing Albanians who seek to create a similar enclave in Kosovo.<sup>48</sup> Senator Robert Dole reported, "the Serbian government is systematically destroying the human rights of the Albanians."<sup>49</sup> In 1990, there were over 250 deaths in South Africa from factional fighting between Inkatha and the African National Congress.<sup>50</sup>

The international community's interest in preventing these abuses is clear.<sup>51</sup> The human rights violations that accompany fragmentation sow seeds of future conflict.<sup>52</sup> Ethnic Hungarians and Albanians are seeking autonomy in Yugoslavia,<sup>53</sup> no doubt raising ethnic tempers in Hungary and Albania. Racial tensions in South Africa raised tensions everywhere.<sup>54</sup>

The fourth risk, which is clearly the most indivisible, is that fragmentation will proliferate. Once one group is able to exercise its rights of self-determination, other groups are sure to follow.<sup>55</sup> These other groups may be within already fragmenting groups, such as we see in Russia and Serbia.<sup>56</sup> Or, they may be in other countries. In East Europe, we saw "the achievement of liberty in one country" cause similar results in others.<sup>57</sup> In either case, the other three security risks compound.

To summarize, fragmentation causes four distinct security risks: factional competition, power vacuums, human rights violations, and proliferation. Each of these threatens the entire community with potential nuclear confrontation, "brain drain," spill-overs of violence, and fights to fill power vacuums.



## 2. Regionalism.

Regionalism promotes security and cooperation "only within limited segments of the globe" where common loyalties, problems, and interests exist.<sup>58</sup>

Regionalism stands in contrast to globalism, which attempts to find commonality on a global scale.<sup>59</sup>

Regionalism has an advantage in that it is easier to unite a limited area than the whole globe.<sup>60</sup> On the other hand, regionalism poses a risk that regional agencies will take on lives of their own and compete with other regional agencies.<sup>61</sup> Regional conflicts are even more indivisible than other international conflicts. The Cold War was forty-five years of regional competition that threatened security all over the world. No place was safe from potential nuclear conflict or low intensity conflict.

Despite current optimism regarding regional relationships, regional competition will arise. The United States National Security Strategy says, "[w]e see regimes that have made themselves champions of regional radicalism, states that are all too vulnerable to such pressures, governments that refuse to recognize one another, and countries that have claims on one

another's territory - some with significant military capabilities and a history of recurring war."<sup>62</sup>

Regional competition will occur not only with radical regimes, but also with the European Community and Japan. With the demise of the Soviet threat, European and Japanese loyalty to the United States will fade.

Current United States support for the European Community is precarious for several reasons. First, the European Community may pursue its own economic interests through trade barriers. European markets account for forty-six percent of world trade.<sup>63</sup>

Second, though the European Community promises freer trade, American voters may not want freer trade.<sup>64</sup>

Third, Europe may challenge the United States' political role. French President Francois Mitterand, "eyeing the United States and Japan, says Europe will be the top power by the next century."<sup>65</sup> Europe is planning a unified foreign and defense policy that would certainly affect NATO.<sup>66</sup>

Also Japan is considering a regional strategy due to competitive pressures from aggressive United States trade policy, European Community integration, and prospects of a North American Free Trade Agreement.<sup>67</sup>

Japan also wants to expand its political influence, and reduce the American military presence in Asia.<sup>68</sup> Due to its economic power, Japan is likely to become a challenging competitor. A recent poll of Americans reported that sixty percent believe Japan is a "'critical threat' to the vital interests of the United States."<sup>69</sup>

### 3. Drug trafficking.

No security threat is as significant today as is the drug trade. "[I]llicit [drug] traffic generates large financial profits and wealth enabling transnational criminal organizations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial business, and society at all its levels."<sup>70</sup> Despite the commitment of increased resources in recent years (from \$6 billion to \$10 billion by the United States), the threat continues with no discernable end in sight.<sup>71</sup> In the 1990's, the United States expects traffickers to continue their exploitation of American markets and expand into the European Community and East Asian countries.<sup>72</sup>

No security threat is as indivisible as the drug

trade. "None of us -not one- is safe from the danger of drugs. Drugs pose a serious threat to global security. . . . There is no country . . . so proud or so great as to be able to rid itself of drugs without the help of other nations."<sup>73</sup> The United States attacks the problem both at home and abroad, recognizing that victory on both fronts is essential.<sup>74</sup> This is true for several reasons.

First, drug trafficking anywhere threatens countries everywhere because it overwhelms producer countries, rendering them unable to prevent harm to others. For example, Colombia has completely succumbed to the trade. Its economy depends (and thrives) on cocaine. Profits from the trade corrupt the government, buy up valuable property, make trafficking more efficient, and provide social standing. Internal violence reigns. There were over 16,200 homicides in 1987 alone. There are over 12,000 guerrilla combatants in eight different guerrilla groups. The country is in an abyss, powerless to prevent production and export of drugs.<sup>75</sup>

Second, drug trafficking anywhere threatens countries everywhere because it causes tensions between

producing and consuming countries.<sup>76</sup> Such tensions exist between Colombia and the United States. From 1979 to 1981, the Medellin traffickers literally attacked the Miami drug market, killing over 100 persons in 1981 alone. They capitalized on anti-U.S. sentiment in Colombia to oppose the 1979 extradition treaty. The United States has often frustrated the Colombian government by doubting its resolve in fighting the Medellin cartel.<sup>77</sup>

The United States has conflicts with countries other than Colombia. Heroin production and export continue in Burma with apparent government support.<sup>78</sup> Because China supports Burma, the United States and the United Nations have little influence there. United States drug intervention assistance in Bolivia is reluctantly received and largely ineffective. Rather than fight drug traffickers, Bolivia uses the aid for counterinsurgency operations "in which hundreds of civilians have . . . been executed by government forces."<sup>79</sup> The same problem exists in Peru.<sup>80</sup> The United States' policy of abducting drug traffickers from Mexico has strained that relationship.<sup>81</sup>

Third, drug trafficking anywhere threatens

countries everywhere because it crosses borders easily. The violence in Miami from 1979 to 1981 is not the only example. In 1986, the Medellin cartel attempted to assassinate the former Colombian Justice Minister in Hungary.<sup>82</sup> Drug profits pass from country to country, relatively free from governmental control.<sup>83</sup> United States' efforts to police its borders have had little impact, because traffickers continually find new ways to hide drugs coming into the country.<sup>84</sup>

For these reasons, the United States will be secure from the drug threat only when the international community is secure. The inability of producer countries to control the problem, to say nothing of consumer countries' inability, is an international problem. Tensions between producer and consumer countries present security problems beyond combatting the traffickers. Finally, because the drug trade crosses borders so easily, no one is safe until everyone is safe.

#### 4. Terrorism.

[T]errorism has generated unprecedented dangers to the national security of democratic nations . . . Terrorists are

capable . . . of killing hundreds of innocents at a clip. . . . [T]he technology for building bombs that can escape detection has outstripped the technology for preventing the tragedies they cause. We have reason to fear, moreover, that if this form of warfare continues it will get even bloodier.<sup>85</sup>

Despite the significant political developments of the last few years, the danger of terrorism continues. Over 200 terrorist attacks occurred during Operation Desert Storm.<sup>86</sup> The United States will continue to be a terrorist target as long as it remains an active world power. Therefore, the United States will be safe from terrorism only when the international community is safe.<sup>87</sup>

Terrorism anywhere affects the United States and the international community for three reasons: its causes are international, its effects are international, and it undermines cooperation between states. Terrorism stems from colonialism and alien occupation.<sup>88</sup> We see examples of this in Northern Ireland and Palestine. Regardless of who is right, the conflicts are clearly international and terrorism is

the result. Because of its international stature the United States must confront these issues, and often must decide which side to support.<sup>89</sup> As a result, the United States becomes the terrorist's target.

Terrorism's effects also are international, impacting on states even when committed outside their borders. During Desert Storm, terrorists killed an American and targeted the American embassy in Jakarta.<sup>90</sup> Since 1985, Americans in Rome, Vienna, Berlin, and on Pan Am flight 103 have been terrorist targets.<sup>91</sup>

Terrorism undermines cooperation between states.<sup>92</sup> States use terrorism to attack others and evade responsibility for their actions.<sup>93</sup> Libya tried to avoid responsibility for its terrorism in 1985 and 1986. This covert warfare allows states to take matters into their own hands rather than use cooperative means to resolve disputes.

When cooperation breaks down the potential for violence increases.<sup>94</sup> Target states may feel compelled to take extreme measures when unable to rely on normal legal procedures. Israel performed a hostage rescue in Uganda when Uganda supported hijackers, who held



Israeli citizens at Entebbe. President Reagan ordered the bombing of terrorist camps in Libya after Libya ignored warnings to stop its attacks. Also, when a state refuses to extradite a terrorist, the target state may abduct the terrorists, causing "a severe strain on relations."<sup>95</sup>

Terrorism remains a significant international security threat. The United States recognizes that its prominent role in international affairs makes it especially vulnerable. Terrorism's causes and effects are international. It undermines cooperation between states. Therefore, the United States will be safe from terrorism only when the international community is safe.

#### 5. Arms proliferation.

Arms control, to include non-proliferation and disarmament, is a recognized means to preserve international security.<sup>96</sup> Kant included disarmament as one of his conditions for perpetual peace. Czar Nicholas II made disarmament an objective of the first Hague Conference. President Wilson included disarmament in his Fourteen Points.

Despite the recognized value of arms control,

proliferation remains a significant threat.<sup>97</sup> Military technology is such that bombs the size of a desk have the power of the one dropped on Nagasaki. They also are "easily hidden, easily transported - and susceptible to theft."<sup>98</sup> Over seven thousand exist in the former Soviet Union. Iraq threatened the Middle East with nuclear and chemical weapons during the Gulf War.

Efforts to prevent proliferation have been only marginally successful. Iraq was able to develop nuclear and chemical weapons despite international controls.<sup>99</sup> States have resisted verification because they fear outside interference with their national security plans.<sup>100</sup> An improper balancing between the need to deprive the irresponsible the need to protect the needy undermines deterrence.<sup>101</sup> Recent experience with Iraq confirms this.

Arms proliferation will continue to be an indivisible threat. The Cold War's end has not eliminated the problem, but merely changed it from bipolar to global.<sup>102</sup> Current risks from Soviet fragmentation, "brain drain," and Iraqi recalcitrance, threaten countries all over the world.

Fragmentation of the former Soviet Union presents the United States two security threats. First, the "preeminent U.S. interest . . . continues to be to avoid a nuclear war between the two countries."<sup>103</sup> While this threat is less likely to occur than in the past, ignoring it would be a mistake. Second, violence or chaos in the new Confederation could result in a loss of control over nuclear weapons. Four republic leaders (Russia, Ukraine, Belarus, and Kazakhstan) currently have some control over launching decisions. These two risks have moved Congress to authorize \$400 million for destroying Soviet nuclear weapons.<sup>104</sup>

"Brain drain" is a related risk. The United States fears other countries will hire Soviet nuclear experts, who are now out of work. According to CIA Director Gates, Third World countries could use Soviet expertise to "expand their military capabilities . . . posing new challenges to U.S. interests."<sup>105</sup> He expects that Cuba, Syria, Egypt, and Algeria would be interested. The 1,000 to 2,000 scientists, who have no alternative employment, may agree to help these countries. Libya has already solicited two Russian nuclear scientists.<sup>106</sup>

If the post-war Iraqi government teaches anything,

it teaches that arms proliferation will continue to threaten the whole world. Iraq was integrated into the international arms market long before the invasion of Kuwait.<sup>107</sup> Nothing since the invasion has changed the international arms market. Although the United Nations has imposed strict sanctions against Iraq, it remains defiant in its public statements and actions.<sup>108</sup> Other countries with the will to use nuclear, chemical, and biological weapons also seek them.<sup>109</sup> Countries that produce these weapons have the economic incentive to make them available.<sup>110</sup>

The international community continues to face dangers from arms proliferation. The end of the Cold War has only changed the nature of the risk. Soviet fragmentation, "brain drain," and the aggressive desires of Third World dictators pose global problems. As a result, no country is safe until the whole community is safe.

#### 6. Economic Competition.

Cold War threats have so occupied the world's thinking that now it may be difficult to believe economic competition is a legitimate security threat. In the former United Nations Secretary General's view,

however, economic competition has always been a security threat. "Throughout history, nations and peoples have been drawn into conflicts over natural resources. Wars have been fought for territorial expansion, for access to mineral wealth and for control of water."<sup>111</sup>

Economic competition remains a serious concern. "Today, in a world of growing population and proliferating technologies, competition over limited resources can become more fierce . . ."<sup>112</sup> Iraq's invasion and threat to control the oil in the Middle East proves this point.<sup>113</sup>

The Cold War's end will permit greater interest in economic issues. Tensions are rising between allies whose cooperation was motivated by the fear of communism.<sup>114</sup> President Bush recognizes not only the possibility of conflict, but also the potential consequences. "We must guard against the danger that old Cold War allies will become new economic adversaries. . . . There are signs . . . that this could happen. . . . That way lies economic ruin -a prescription for plunging us into the kind of impoverishing rivalry that ravaged our economies during

the Great Depression."<sup>115</sup>

Economic competition will become more indivisible and intense as time passes. Individual countries' economies are becoming increasingly dependent upon each other; "no nation . . . can maintain itself apart from the rest of the world for very long."<sup>116</sup> The United States is no exception.<sup>117</sup> Economic competition will raise at least three security threats: threats to resources, competition for economic success, and arms proliferation.

Iraq's invasion of Kuwait illustrates how access to resources affects the whole world. Had Iraq maintained control,

[s]taunch allies in the region such as Saudi Arabia, Egypt, Turkey, and, of course, Israel would have faced a real and immediate threat to their stability. The developing countries of Asia, Africa, and Latin America would have been threatened with arbitrary and capricious economic devastation. The industrial democracies of the West and the fledgling democracies of the East would have been at the economic mercy of a man who had little

inclination to show any mercy himself.<sup>118</sup>

Victory in the Gulf did not resolve the general problem. Middle East tensions are as likely to clash over water as oil, for both are "fundamental keys to life in the region."<sup>119</sup> Japan, which is extremely dependent on foreign natural resources, will likely seek greater influence in areas where they are available.<sup>120</sup> The United States, also dependent on foreign natural resources, recognizes the need to protect its access. "We did not send our young women and men into harm's way simply to defend the price of gasoline. . . . But if vital issues of principle were at stake so were vital economic interests."<sup>121</sup>

Competition between economic powers also creates security risks. Such competition will occur between the United States, Japan, and the European Community. While no one seriously believes any form of military conflict is likely today, many believe the competition will become more fierce.<sup>122</sup> If intense economic competition develops, military confrontation is possible.

The United States - Japanese relationship has become strained. Though far from violent, the

"relationship is increasingly filled with friction, resentment and mutual recrimination."<sup>123</sup> With the Soviet threat gone, Japan depends less on United States' security assistance and grows more independent in its economic and foreign policy.<sup>124</sup> Since the Cold War, Americans also have changed their view of Japan. In 1982, public opinion polls showed that Americans considered Japan "'more important to U.S. interests' than any other country."<sup>125</sup> Yet, by 1990, sixty percent of those questioned believed Japan's economic power was a "'critical threat' to the vital interests of the United States."<sup>126</sup>

While the United States - European Community relationship is still cooperative, fears of economic competition exist. Secretary of State Baker fears the European Community will become protectionist.<sup>127</sup> The Soviet threat that smoothed the United States - Japanese relationship no longer exists here either. Will the European Community break down trade barriers, or take on a life of its own?<sup>128</sup>

Additionally, economic competition presents a security threat from the struggle between rich and poor. "Within developing nations, dramatic increases



in population and growing dissatisfaction with the perpetual gap between rich and poor will continue to be major causes of unrest and insurgency."<sup>129</sup> While many Third World countries progressed in the 1980's, many others are still floundering in debt.<sup>130</sup> Since "harsh economic conditions . . . and political instability [are] natural allies," those countries that compete well will face threats from those that do not.<sup>131</sup>

Economic incentives to sell military technology and hardware threaten international security in two ways. First, profits from arms sales make producing states unwilling or unable to control what their businesses sell. It appears that Iraq obtained chemical weapons ingredients or technology from Singapore, India, Malaysia, Western Europe, and China.<sup>132</sup> Second, a state's desire to protect its domestic companies' trade secrets might cause it to oppose verification. Losing a trade secret could cost millions of dollars, crippling even a giant company.<sup>133</sup> These economic incentives undermine arms control, and increase proliferation's risks.

Economic competition has always created security problems. Now that the Cold War is over, these

problems will receive more attention. Neither the United States nor its competitors are immune; access to resources, international competition, and arms sales affect their economies. Additionally, future relations between the United States and its competitors will become more tense.

C. Summary.

The world today is integrated so much that nations isolate themselves at their peril. Therefore, states are secure only when the community is secure. Security risks from fragmentation, regional competition, drug trafficking, terrorism, arms proliferation, and economic competition impact on all. This does not mean doom, but that states must commit to international security, if only for their own sakes. To pursue self-interest one must also pursue the community interest. Since this is true, considering how to improve international security requires is important.

III. INTERNATIONAL SECURITY IMPROVES AS THE UNITED NATIONS SECURITY COUNCIL FUNCTIONS EFFECTIVELY.

To improve international security states must promote unity, coercion, and justice. Only as they do will they meet today's security threats. States can

promote unity, coercion, and justice only through a central international authority. Since the United Nations Security Council has more potential than any other authority in history, states should rely on it and seek to improve it.

A. Today's Security Threats Require Unity.

1. The need for unity.

'NEIGHBORING NATIONS are naturally enemies of each other, unless their common weakness forces them to league in a CONFEDERATIVE REPUBLIC, and their constitution prevents the differences that neighborhood occasions, extinguishing that secret jealousy which disposes all states to aggrandize themselves at the expense of their neighbors.' This passage, at the same time, points out the EVIL and suggests the REMEDY.<sup>134</sup>

Unity is necessary because the disunity's evils are great. Disunity's evils are great because security is indivisible.<sup>135</sup> The remedy, as the quotation suggests, is unity.

Unity is commitment to the common purpose, rather than an individual purpose.<sup>136</sup> Self-interest tends to

make enemies of nations. To unite, they must determine their common weaknesses, and commit to the collective interest.<sup>137</sup> Today's security threats are the common weaknesses. Whether states will commit to the collective interest is the issue. There are many practical benefits of unity: internal security, economic prosperity, individual freedom, and burden sharing.<sup>138</sup>

Unity is necessary and beneficial on any scale. The analogy between the state in a society of states and the individual in a society of individuals is complete. . . . In short, the individual human being enriches his nature, strengthens his moral life and adds to his own worth by that form of social and political association and service which is found in close and intimate contact with his fellow men.

Precisely the same considerations apply to the life and activity of nations. When two or more sovereign states agree together to promote some common and noble end, they do not limit their sovereignties; they rather

enrich them. By this co-operation and association each sovereign state reveals the fact that it has a moral consciousness and a moral purpose. It makes it plain that it cannot, and will not, live for itself alone, but will do all that lies in its power to promote the common interest of mankind. This does not limit sovereignty; it increases the value of sovereignty by ennobling it.<sup>139</sup>

When the international community has united, it has preserved security. The United Nations successfully restored peace and order after North Korea's aggression in 1950, and Iraq's aggression in 1990.<sup>140</sup> Europe is making tremendous changes peacefully, due in large part to unity among Western European countries.<sup>141</sup>

When the international community has not united, security threats continued. In 1946, the United States proposed an International Atomic Development Authority to manage atomic energy without interference from the permanent member veto. The Soviet Union opposed this, preventing unity on this issue.<sup>142</sup> Although this was expected, it necessitated the Cold War arms race. Disunity between Great Britain and the Soviet Union

over Palestine prevented the Security Council from maintaining peace as the Jewish state formed.<sup>143</sup>

Disunity over how to change South Africa's apartheid policy allowed the policy to continue.<sup>144</sup> Disunity over Lebanon (biased counterproposals in the Council that received overwhelming support, but were vetoed) allowed that conflict to continue.<sup>145</sup>

Unity is more necessary today than ever before. Natural jealousies grow as nations grow more interdependent. Therefore, commitment to preserve peace and security becomes more important each day. When the international community unites, it succeeds. When it does not, it fails.

## 2. Today's challenges demand unity.

Though many countries are interested in international security, none can be the world's police officer.<sup>146</sup> Nations must unite to defeat today's security threats, or their efforts will be ineffective.

Preserving security during fragmentation requires unity. The civil war in Yugoslavia has brought systematic violations of human rights.<sup>147</sup> Serbs seek both to keep Yugoslavia together, and to create an independent Serbian enclave in Croatia. They seek the

enclave in Croatia, but suppress creation of an Albanian enclave in Serbia. There is no unity in Yugoslavia. Yet, the disunity has enormous consequences, not only for those who live there, but also for neighboring states.<sup>148</sup>

A unified international response to fragmentation is required for three reasons. First, it is necessary to keep the peace and protect human rights.<sup>149</sup> Second, it is necessary to prevent fragmentation from spreading. German Foreign Minister Hans-Dietrich Genscher has called for a unified international response in Yugoslavia, fearing "the example of the Yugoslav People's Army will be emulated."<sup>150</sup> Third, unity is necessary to ensure peaceful transition of power in fragmenting states. This is true not only in Yugoslavia, but also in the former Soviet Union.<sup>151</sup>

Preventing the threats from regional competition requires international unity. Otherwise, violent competition between regional powers and low intensity conflicts in their spheres are likely. Resurgng "Cold War" disunity would bring "Cold War" security threats.

Neither the United States nor any other country can defeat drug trafficking alone.<sup>152</sup> First, international

cooperation is necessary because drugs, drug profits, and drug violence cross borders so easily. Second, effective solutions require producer and consumer states to stop blaming each other.<sup>153</sup> Third, because the drug trade overwhelms producer countries, cooperative international assistance is the only hope.<sup>154</sup> When states have united, they have been successful.<sup>155</sup>

Defeating terrorism requires a unified international response. First, since terrorism's causes are international, its solutions must be international.<sup>156</sup> Second, since terrorists cross international borders easily, preventing them requires international cooperation. Third, since some states are willing to harbor suspected terrorists,<sup>157</sup> international unity is necessary to punish terrorists and prevent target states from escalating the violence.

International unity during Desert Storm thwarted Saddam Hussein's call for terrorism against coalition members. The international community condemned Iraq's hostage-taking, warned Iraq through diplomatic channels, expelled Iraqi diplomats who assisted terrorists, and protected their airlines and



embassies.<sup>158</sup> These measures were largely successful.<sup>159</sup> No terrorist incidents occurred in the United States. A bomb placed near the American embassy in Jakarta was safely disarmed. "Elsewhere . . . plots to attack official and public facilities connected to coalition interests were discovered and thwarted . . ."<sup>160</sup>

International unity is required to prevent arms proliferation for two reasons. First, unity is necessary to establish and enforce international controls. The profits motivate producers to sell regardless of the security risks.<sup>161</sup> Some countries remain intent on developing nuclear, biological, and chemical weapons capabilities despite international controls.<sup>162</sup> Should the international community forsake its commitment to purge Iraq of all unconventional weapons, there is no doubt what Iraq will do. Second, there is a special need to ensure control over the former Soviet Union's vast nuclear arsenal. Unity among the former republics and among interested nations who would fill the power vacuum will be important as long as control is in doubt.<sup>163</sup>

Preventing threats from economic competition requires unity among competitors, and unity against

those who deny access to vital resources. Unity among competitors must exist in two forms. First, they must avoid protectionism.<sup>164</sup> Second, they must share the economic burden of maintaining security. The unity demonstrated during Desert Storm was exceptional. Kuwait, Saudi Arabia, the United Arab Emirates, Japan, Germany, and South Korea contributed over \$54 billion in support of United States military efforts.<sup>165</sup> The need for unity to protect resources became apparent in the Persian Gulf War. As Saddam Hussein attempted to control oil supplies in the Middle East, so may others attempt to control critical economic resources in the future.<sup>166</sup>

#### 4. Summary.

The need for unity exists because security is indivisible. States must choose to commit to the collective interest to achieve their self-interest. The risks of disunity -jealousies between states, unresolved civil conflicts having international effects, economic protectionism, regional conflicts, arms races, and thriving international crime- are greater today than ever before. The benefits of unity -economic prosperity, internal security, preservation

of human rights, and burden sharing- are also great. Whether the risks or the benefits prevail in the new world order depends upon the extent to which states unite. Nevertheless, while unity is necessary, it is not sufficient. It must lead to coercion before it becomes effective.

B. Today's Security Threats Require Coercion.

1. The need for international coercion.

As the previous section discussed, unity is beneficial to international security. This is so because it facilitates coercion against those who violate community values. Coercion means enforcement of community values. It is necessary because there are always some who choose self-interest at the community's expense.<sup>167</sup> Therefore, the community can coerce compliance only as it prescribes norms, achieves peaceful resolution of disputes, and deters aggression.<sup>168</sup> The international community recognizes this, having granted such power to the Security Council.<sup>169</sup> This competence to enforce community values is necessary to defeat today's security threats.

2. International coercion is necessary to meet current security threats.

Fragmenting countries are often unable to control internal violence and unwilling to allow international coercion.<sup>170</sup> Yet, community values are at stake. Violence in Yugoslavia has degraded human rights and threatened neighboring countries such that international coercion is necessary.<sup>171</sup> Fragmentation in the former Soviet Union raises concerns over nuclear weapons control, "brain drain," and conflicts over the power vacuum.<sup>172</sup> World leaders are rightly concerned about these problems.<sup>173</sup>

While the regional competition that existed during the Cold War has not returned, it is as likely to breed conflicts in the future as in the past.<sup>174</sup> Coercion is as necessary today as during the Cold War. Yet, it is as unlikely because the veto will protect regional powers. Absent a change in the nature of regional competition and the Council's competence, "Cold War" will return.

Fighting drug trafficking requires significant coercion. Demand reduction, border patrols, and supply reduction are all required.<sup>175</sup> Because drug trafficking is a community problem, it requires community coercion. Cooperative efforts have been successful, but not

sufficient.<sup>176</sup> Drug money crosses borders free of international controls, making it difficult to confiscate the massive profits.<sup>177</sup> Producer countries are unable to cooperate in law enforcement, because traffickers have terrorized or corrupted their governments.<sup>178</sup> Only international coercion can overcome these obstacles.

Terrorism, like drug trafficking, is a community problem requiring community coercion. There are two reasons for this. First, states that sponsor terrorism are not cooperating. Libya, for example, has long supported terrorism, despite warnings and sanctions.<sup>179</sup> Libya also resisted extradition of the Pan Am 103 suspects.<sup>180</sup> Second, the community must apply coercion because victim states raise tensions when they rescue hostages, attack terrorist bases, or abduct suspects from other states.<sup>181</sup> Community coercion is more disinterested, and more likely to promote peace.

International coercion to prevent proliferation is necessary because arms controls are coercive by nature, and because state self-interest promotes proliferation. The arms control functions of regulation and verification are both coercive. Regulations prescribe

community values for each member. (Currently these standards are insufficient.)<sup>182</sup> Verification works only if the community is able to obtain information from uncooperative countries, and inspect for compliance.<sup>183</sup>

Iraq demonstrated why coercion is necessary to prevent proliferation. It developed chemical and nuclear weapons despite obligations under the 1925 Geneva Protocol and 1968 Nuclear Non-Proliferation Treaties.<sup>184</sup> Iraq resists United Nations efforts to enforce compliance and intends to violate the agreements once the United Nations team leaves.<sup>185</sup>

Iraq's motives are understandable, because every state desires military power, technology, and profits from arms sales. Yet, these motives are precisely why international coercion is imperative. The Iraqi military build-up is no aberration. The Japanese militarized during the 1930's under the umbrella of an Asian arms control pact.<sup>186</sup> The Soviets were developing biological weapons in 1979 despite the 1972 Convention.<sup>187</sup> Without international coercion, arms proliferation will never stop.

The risk that economic competition will cause threats to vital resources, competition for success,

and arms proliferation is real. Therefore, international coercion will be required to ensure peaceful settlement of disputes,<sup>188</sup> prevent arms proliferation, and maintain community access to vital resources.

### 3. Summary.

International coercion is necessary because states will seek self-interest at the expense of community values. Yet, community values become more important each day. This is evident in many fields - fragmentation, regional competition, drug trafficking, terrorism, arms proliferation, and economic competition. The community cannot solve these problems without coercion. Thus, coercion and unity are both necessary for maintaining international security. Nevertheless, even together they are insufficient. They must also be just to be effective.

#### C. Today's Security Threats Require Justice.

"There is no real peace and security . . . if these are achieved only at the sacrifice of justice."<sup>189</sup>

##### 1. Justice is having an honest broker.

Justice, as the world faces today's security challenges, means a disinterested decisionmaker, or

honest broker. The principle that no one should judge his or her own cause is firm.<sup>190</sup> The United Nations Charter recognizes the need for an international honest broker. In Article I it states that the United Nations will maintain peace and settle disputes "in conformity with . . . justice and international law."<sup>191</sup> The drafters recognized that the Security Council must not only "suppress the use of armed force," but also "act as an organ of conciliation."<sup>192</sup> To foster conciliation, one must be an honest broker; otherwise, the parties will lack trust and reject the process.

## 2. Honest brokers are necessary.

Fostering conciliation is important because states are always in close contact, and therefore, in conflict.<sup>193</sup> "In . . . this continuous process, contending participants make certain . . . claims about the lawfulness and unlawfulness of . . . coercion. . . . Generally, one participant asserts that it is lawful to . . . accelerate the intensity of coercion . . . against the opposing participant; and the opposing participant then maintains that such is unlawful . . . and justifies defensive coercion."<sup>194</sup> Honest brokers are able to decelerate the intensity of coercion.<sup>195</sup>



That is why the United Nations Charter gives the Security Council power to perform this role.<sup>196</sup>

Honest brokers have succeeded in the past. The League of Nations resolved twenty cases during its first ten years.<sup>197</sup> The United Nations secured the peaceful disposition of Italy's colonies when no other agreement could be reached.<sup>198</sup> Despite criticism of the United Nation's effectiveness, "[it] is still capable of performing its function of peaceful settlement . . . In the opinion of many, this is its major responsibility and opportunity . . ."<sup>199</sup> This opportunity exists only because parties have confidence in its impartiality.

### 3. Today's threats require honest brokers.

Each of today's security threats requires an honest broker to reduce tensions. Fragmentation in Yugoslavia is rampant with ethnic hatred that accelerates violence. The Serbs are not honest brokers. They have violated human rights and prevented human rights delegations from working in the country.<sup>200</sup> They have taken inconsistent positions on allowing independence, favoring it for fellow Serbs in Croatia, but opposing it for ethnic Albanians in Serbia.<sup>201</sup> Yugoslavia will

not be able to reduce tensions alone.<sup>202</sup>

Regional competition between the United States, European Community, and Asian powers will grow more intense in all spheres -economic, political, and military.<sup>203</sup> No honest broker conciliated disputes between Cold War rivals. Having an honest broker to foster conciliation in the future would make the world safer than it was during the Cold War.

The drug war causes conflicts over responsibility for the problem, security assistance, and extradition.<sup>204</sup> These conflicts have created strong anti-American sentiment in Colombia, Peru, and Bolivia that engenders sympathy for the traffickers and hinders law enforcement.<sup>205</sup> The United States is not an honest broker because it has law enforcement interests in these countries. An international agency would be better able to reduce tensions and make law enforcement more effective.

Terrorism presents a classic example of how conflicts accelerate into violence. Colonialism and alien occupation raise competing claims to independence by one side, and to maintain order by the other. As the parties pursue their claims, the conflict often

escalates into terrorist attacks.<sup>206</sup> Then, because the international community cannot intervene effectively, targeted states escalate the violence, arguing self-defense.<sup>207</sup> Later, targeted states seek to extradite the terrorists from harboring states, raising new conflicts which can escalate into sanctions or abductions.<sup>208</sup> Having an honest broker involved early would ease tensions. Therefore, the international community seeks an increased United Nations role.<sup>209</sup>

Arms proliferation causes tensions for many reasons. States create tensions between building military strength for their own security and raising neighbors' fears. Regional powers create tensions between their regional security and the community's interest in preventing proliferation.<sup>210</sup> States that produce arms create tensions between their desire for profits and the community's need to prevent proliferation. Since no country can be an honest broker on this issue, an international authority is necessary.

Economic competition generates tension over the need to protect resources, competition between economic powers, and desire for profits from the arms

industry.<sup>211</sup> Reducing these tensions is as important as reducing any of the others. Here, as in arms control disputes, every state always has an interest. Therefore, an international honest broker must exist to manage the conflicts.<sup>212</sup>

### 3. Summary.

Each of today's security challenges requires an honest broker. Tensions more likely escalate when interested parties are left to resolve conflicts themselves than when honest brokers exert their conciliating influence. Therefore, honest brokers must intervene in today's security challenges. Because individual states are rarely disinterested, only an international authority will be an honest broker.

D. Unity, Coercion, and Justice Coexist Only in a Central International Authority.

#### 1. The need for international authority.

To this point, the analysis shows that international security requires unity, coercion, and justice. Each of these implies a need for some international authority. The only type of authority in which they coexist is a central international authority. The other forms of authority -moral

consensus, individual state enforcement, or regional enforcement- lack at least one of them. Where one of them is lacking, international security suffers.

Unity, coercion, and justice imply a need for authority. Since unity is commitment to a common purpose, it implies a need for authority, even if this authority is merely the common purpose. Coercion implies a need for authority because some standard must exist, and some power must exist to enforce the standard.<sup>213</sup> Justice implies authority because someone impartial must judge.

The great thinkers of the past six centuries believed these values require authority. Their peace plans relied on authority. In the early 1300's, Dubois advocated a federation of states. He proposed a council and panel of judges to decide disputes between nations (honest broker); and "advocated concerted military action" (coercion) against aggressors.<sup>214</sup> Dante proposed a world government; the whole world (unity) under an emperor, who would settle all disputes (honest broker) and suppress tyrannies (coercion).<sup>215</sup> Cruce designed an international assembly where delegates would judge disputes (honest broker) and

members would enforce decisions (coercion).<sup>216</sup> Grotius proposed conferences between states where disinterested parties (honest brokers) would decide disputes, and enforce peace (coercion).<sup>217</sup> Saint-Pierre proposed a union of Europe in which a senate (honest broker) would decide disputes and members would enforce decisions (coercion).<sup>218</sup> Rousseau argued for a federation of Europe with a parliament (honest broker) to decide disputes and a federal army to enforce decisions (coercion).<sup>219</sup> Kant, though he believed a world republic was impossible, still argued that a federation (honest broker) was necessary for peace. He called upon states "to yield to the coercion of public laws."<sup>220</sup>

The founders of the League of Nations and United Nations likewise agreed that authority is necessary to achieve unity, coercion, and justice. The League Covenant purposed to "promote international cooperation" (unity), and establish firmly international law as the "actual rule of conduct among Governments" (coercion).<sup>221</sup> It established a Council and Assembly (honest brokers), giving them authority to "deal with any matter . . . affecting the peace of the

world."<sup>222</sup> The United Nations founders purposed to unite their strength to "ensure . . . that armed force shall not be used, save in the common interest."<sup>223</sup> They provided for coercion, granting the Security Council power to intervene to maintain or restore security. They provided honest brokers, an Assembly and Security Council, to resolve disputes between nations.<sup>224</sup>

World leaders are calling for reliance on international authority to resolve current security threats. Secretary of State Baker has urged all countries to make maximum use of the United Nations to fight drugs.<sup>225</sup> Several world leaders are calling for United Nations and European intervention in Yugoslavia.<sup>226</sup> United Nations members have long called for ratification of terrorism conventions and better cooperation.<sup>227</sup> Former Secretary General Javier Perez de Cuellar has called for more United Nations involvement to promote economic development.<sup>228</sup> United States policy supports an international arms control authority.<sup>229</sup>

2. The need for central international authority.

Unity, coercion, and justice require not merely some international authority, but a central international authority. Other possible alternatives lack at least one of these necessary values. First, consider moral consensus. While this provides for unity, it lacks coercion. Offending states feel no pressure to submit to community values. Their desire and ability to pursue self-interest causes others to do likewise, destroying their unity.<sup>230</sup> This phenomenon occurred during the dispute over creation of the International Atomic Development Authority.<sup>231</sup> Both the United States and Soviet Union agreed morally that atomic power should be used only for peaceful purposes. Nevertheless, they established no coercive authority. Their mutual mistrust degenerated into complete disunity.

Second, consider moral consensus with individual state enforcement. This is better than consensus with no coercive power; but it lacks an honest broker. Generally, when states have no interest they are reluctant to expend resources to resolve a problem. Interested states desire to enforce the law, but are not honest brokers. Their actions are more likely to



escalate than reduce tensions, more likely to suppress than resolve conflicts.

Third, consider regional agencies with coercive power. These promote unity and coercion better than the first two, and serve as honest brokers when deciding internal conflicts. In fact, they are central authorities in internal conflicts. On the other hand, regional authorities are no more honest brokers in external conflicts than are their members.

Fourth, consider a central international authority. It provides unity, coercion, and justice. Unity exists because its structures are able to determine and promote consensus. Coercive power is possible here, even as in an individual state or regional authority. Justice, the honest broker, exists here for all conflicts, because all disputes it considers are internal.

The question whether to vest authority in regional agencies or in a central authority arose during the San Francisco conference on the United Nations Charter. While delegates were acquainted with Churchill's preference for regional agencies, they also shared Wilson's concern that regionalism would bring "war-

breeding "competition."<sup>232</sup> Therefore, they granted the central organization responsibility for international security.<sup>233</sup> Although regional agencies have been valuable in maintaining peace, the Charter subjects them to the United Nations' authority.<sup>234</sup>

In summary, maintaining security today demands unity, coercion, and justice, which coexist only in a central international authority. Because the Security Council is a central international authority, its potential and effectiveness are important questions. While the Council has been only marginally effective in the past, its potential makes it worthy of continued use and development.

E. The United Nations Security Council is a Worthy Central International Authority.

There have been only two central international authorities in world history, the League of Nations and the United Nations. Many peace plans had called for central international authority; but the world was not ready until after World War I.<sup>235</sup> The Security Council promotes unity, coercion, and justice better than did the League of Nations. Though not often united, the Council acts effectively and improves international

security when it is. Therefore, nations should continue to use and develop it.

The League of Nations and United Nations had similar potential for coercion and justice. The League Covenant required all members to apply sanctions against aggressors.<sup>236</sup> The United Nations Charter empowered the Security Council to decide enforcement measures, and obligated members to follow.<sup>237</sup> The Covenant provided an honest broker, an Assembly and Council, to decide questions about "the peace of the world."<sup>238</sup> The Charter also provided an Assembly and Security Council to decide questions about international security.<sup>239</sup>

They differed, however, in that the United Nations better promoted unity. The League tried to impose unity by legal decree. Article 16 of the League Covenant committed states in advance to impose sanctions automatically and unconditionally.<sup>240</sup> Such broad binding legal language actually caused disunity, for nations would not commit themselves in advance to automatic sanctions.<sup>241</sup> The United Nations, on the other hand, recognized that unity is not legislated. Therefore, the Charter established a mechanism for

pursuing unity, rather than a legal requirement. States were more committed to the United Nations than to the League because of this distinction.<sup>242</sup> Although this mechanism has brought less unity than originally expected, it at least provided potential for developing unity.<sup>243</sup>

This potential is significant, for it allows the Council to become more united and more effective. Almost thirty years ago, Professor Claude noted, "[i]f, indeed, we can safely assume the end of the cold war, the voluntary elimination of major armaments, and the dependable performance of significant international responsibilities by states, there is every prospect that the United Nations will work quite well."<sup>244</sup>

When he said this, these prospects were laughable. Today, they are history. "The bitter struggle that divided the world for over two generations has come to an end. . . . the Cold War is over . . ."<sup>245</sup> Within the past two years the United States and Soviet Union agreed: to cease production of chemical weapons and destroy existing stocks, to limit underground nuclear tests to only those necessary for peaceful purposes, to promote confidence-building measures through the

Conference on Security and Cooperation in Europe, and to reduce conventional armaments between the Atlantic Ocean and Ural Mountains.<sup>246</sup> The United States received commitments of over \$54 billion to support its military operations in the Persian Gulf from Kuwait, Saudi Arabia, the United Arab Emirates, Japan, Germany, and South Korea. This was the greatest sharing of responsibility since World War II.<sup>247</sup>

This change in circumstances has meant more unity in the Council. Increased unity has made the Council more effective, as it demonstrated during the Persian Gulf War. "In the Gulf, we saw the United Nations playing the role dreamed of by its founders . . ."<sup>248</sup> The Council was a springboard for the community response to Iraq's aggression, passing twelve resolutions and cementing unity among the members.<sup>249</sup> The Council continues to promote security in the region by ridding Iraq of its chemical and nuclear weapons.<sup>250</sup> While the Council best demonstrated its value in the Persian Gulf, it has been effective elsewhere.<sup>251</sup>

The Council has great potential, and therefore great value as a central international authority. Recent experience in the Gulf and elsewhere confirms

this. It promotes unity, coercion, and justice better than any other international authority in history. Therefore, the community should continue to support and develop the Council as the primary means to maintain international security.

F. Summary.

Today's security threats require unity, coercion, and justice. International security improves as they develop, and suffers as they diminish. They develop only in a central authority. Since the Security Council has demonstrated more potential to promote them than any other authority, nations rightly support it. Nevertheless, the Council's existence alone does not guarantee international security; nations must make it more effective to improve international security. To make the Council more effective, nations must make it more authoritative.

IV. THE SECURITY COUNCIL WILL BECOME MORE EFFECTIVE AS IT BECOMES MORE AUTHORITATIVE.

Given that today's security threats are indivisible and resolved best through the Security Council, how can the Security Council function most effectively? How can it best promote unity, coercion, and justice? From

the Council's inception to the present it has depended on voluntary cooperation.<sup>252</sup> States commit consistent with their self-interest. This level of commitment is necessary and worthy. Nevertheless, it has limits, expressed through the permanent member veto, that undermine international security.

Changing the veto provision would improve the Council's effectiveness by forcing it to solve security problems. Although eliminating the veto is a difficult task,<sup>253</sup> it is an important task. While such a change requires acceptable conditions,<sup>254</sup> both the conditions and the change are desirable. If no veto exists, permanent members must become problem-solvers. Rather than make futile gestures, they must find solutions that all can support.<sup>255</sup> Without a veto, the Council is more authoritative; it better promotes unity, more effectively enforces community values, and acts more like an honest broker.

A. The Veto is the Crux of the Issue.

Nation-states continue to reserve to themselves control, by unilateral and exclusive decision, over most of the important bases of effective power which can

be employed to sustain general community authority. . . . It is no less true with respect to authority itself as a base value. States remain reluctant to delegate even their inclusive, shared competence - that competence which is authorized by the general community and exercised in the name of and on behalf of the general community -to international governmental organizations.<sup>256</sup>

States have not granted authority to an international organization until they commit themselves legally and accept obligations willingly. Legal commitments alone do not make international organizations authoritative; conditions making the commitment acceptable must also exist.<sup>257</sup> On the other hand, acceptable conditions are not sufficient either. The natural tendency of states is to seek self-interest at the expense of others.<sup>258</sup> Therefore, even where a true common interest lies, "momentary passions, and immediate interests" will control states' decisions.<sup>259</sup> Without a legal authority to promote acceptable conditions, they will fade into conflict.<sup>260</sup>

Achievement of either the legal commitment or the



acceptable conditions requires existence of the other to some extent. Professor Claude describes this circular problem.

[I]s the real task that of persuading people to accept or initiate drastic institutional change, or is it rather that of preparing people, changing them, making them fit . . . The latter formulation would seem to characterize the problem much better. What is required is the profound alteration of attitudes, loyalties, attachments, and values, which in turn involves an attack upon the basic conditions of human society that provide the context within which men are shaped.<sup>261</sup>

When Professor Claude says making people fit for world government is a better formulation of the problem, he acknowledges that acceptable conditions must precede legal commitments. When he says the alteration of values involves an attack on the societal conditions, he acknowledges that some legal commitments must exist to facilitate the attack. Human society will not develop the necessary values unless some authority

molds them.<sup>262</sup>

Because legal commitment and societal conditions affect each other, the important issue is not what commitments and conditions exist, but their trend.

The historical trend in commitments and conditions is toward increased legal commitment and increased acceptance. Although numerous plans for world peace existed before this century, "[t]hey were . . . born into the world before the world was ready to receive them."<sup>263</sup> States relied instead on a system of voluntary alliances, which were manipulated and dissolved easily.<sup>264</sup> Unity and coercion were weak. No honest broker existed. In the end, these alliances drew states into war.<sup>265</sup>

World War I developed acceptable conditions to some degree. It produced "a fresh awareness of the horrors of war, a rather bewildered admission that modern European civilization was not immune from the destructive forces of military conflict, and a distressed feeling that 'it must not happen again.'"<sup>266</sup> Peace plans capitalized on this and called for a League of Nations, a stronger legal commitment than ever before.<sup>267</sup> Nevertheless, while states had legal

commitments to the League, they did not commit themselves to follow its decisions. (The United States was not even willing to commit to the organization.<sup>268</sup>) Under the League, decisions on non-procedural matters required unanimous agreement.<sup>269</sup> Thus, each member had a veto.

World War II stimulated acceptance of even stronger international authority. The major powers realized that they must be involved in the United Nations to make it effective.<sup>270</sup> As a result, they accepted a greater legal commitment than under the League Covenant. (The United States was willing to join this organization.) All United Nations members obligated themselves to Security Council decisions, knowing that the Council had authority to prescribe sanctions.<sup>271</sup> Only the five permanent members, as opposed to all League members, kept a right to avoid adverse decisions. This provided greater unity, coercion, and justice than existed under the League; although permanent member disunity became a problem.

Throughout the Cold War, the international community watched the veto prevent the Council from performing its role. Even President Bush believed the

Council was a failure.<sup>272</sup> Nevertheless, now that the Cold War is over the veto is less necessary. There is a new spirit of cooperation.<sup>273</sup> The international community is now much more integrated.<sup>274</sup> The international power structure is no longer bi-polar, but regional. France, Britain, and China rarely use their vetoes.<sup>275</sup>

These conditions suggest that the international community is willing to accept a greater commitment to the Council. Since the permanent members are the only ones not legally committed, whether they will commit is the question at hand. Their decision will affect the Council's effectiveness because it will affect community respect for the Council authority. Since the veto is the mechanism by which permanent members avoid legal commitments, it is the crux of the matter. Therefore, determining the merits of the veto is important. The first step here is to evaluate the original justifications for the veto.

B. The Veto Is Less Necessary Today.

During the San Francisco conference, four justifications for the veto became clear. First, unanimity was considered indispensable for peace.

Second, permanent members needed to protect their respective national interests. Third, they needed to protect a minority of them from the others. Fourth, they wanted to prevent rash Council decisions.<sup>276</sup> These reasons are less valid today than in 1945 because communism is dead, the world is more integrated, and the power structure is multipolar.

1. Unanimity is not indispensable today.

The need for Great Power unity, unquestioned in 1945,<sup>277</sup> became a demand for permanent member unanimity during the San Francisco conference. The great powers demanded a veto, since the conflict over communism had already caused them to mistrust each other. Neither the United States nor the Soviet Union was willing to be governed by a majority of the others. To form the United Nations without both of them would have been futile.<sup>278</sup> Therefore, the founders were wise to grant the veto, and keep everyone in the organization.<sup>279</sup> The cost of including the veto, however, was the risk that the Council would become deadlocked, a risk which was reality for over forty years.<sup>280</sup>

Today the political climate is different; the conflict over communism is over.<sup>281</sup> Former enemies now

cooperate. President Gorbachev's new thinking included broad cooperation in international organizations.<sup>282</sup>

The Soviet Union "not only voted for each U.N. resolution condemning Iraq and demanding its withdrawal, but also played an important role in persuading others to go along."<sup>283</sup> The United States is cooperating with the new Confederation of Independent States. Because the conflict over communism is over, Cold War enemies have less reason to mistrust each other. Therefore, the veto is less necessary.

2. Self-interest now requires pursuit of the collective interest.

All states that participated in the San Francisco conference attempted to secure their best interests out of the organization, rather than build an organization best suited to the collective interest.<sup>284</sup> Even the United States, which was concerned about receiving Senatorial consent, would not have participated without the veto.<sup>285</sup>

Self-interest provides less justification for the veto today than in 1945 because the world is now more integrated, and security more indivisible.<sup>286</sup> Using the veto at the expense of community interests now has

greater costs. Today, more than ever, isolation is folly.<sup>287</sup> States must pursue the collective interest if only as a means to their own.

3. The veto is now less necessary to protect a minority.

The Soviet Union "constantly inveighed against . . . the abusive exploitation of the West's capacity to mobilize quantities of votes, and . . . cherished the veto as an indispensable safeguard of their own position and interests . . ."<sup>288</sup> As the only communist country with a veto until Communist China's admission, the Soviet Union's concern appears reasonable.

This justification for the veto has less merit today because international politics is now multipolar, not bipolar. Several regional powers now exist, where only two existed during the Cold War.<sup>289</sup> Powers loyal to the United States during the Cold War no longer have the common enemy to bind them together.<sup>290</sup> For these reasons, national interests are much more diverse. This increased number of competing powers and issues makes it less likely that a consistent majority will oppress a minority.<sup>291</sup>

4. The veto is not necessary to preclude rash

decisions.

At the San Francisco conference, the major powers argued that the veto was necessary to preclude decisions that did not have unanimous support.<sup>292</sup> If this justification preserved self-interest or prevented majoritarian tyranny, it has less merit today than in 1945. If it calmed fears about rash decisions, it was without merit.<sup>293</sup>

First, discussion of the issues, and not the veto, makes the folly of rash proposals apparent. To think the veto does this is to pretend that permanent members never communicate, always ignore political reality, and never act outside the Council. Furthermore, to think making an unenforceable decision is bad is to ignore that the veto has the same effect. Second, whether vetoes prevent or cause unwise proposals is not clear. When states foresee a veto, they care little about the merits of the proposal.<sup>294</sup> On the other hand, when states expect proposals will pass, they take them more seriously.

In summary, the justifications for the veto have less merit today than in 1945. Changes in international politics and power bases have undercut



them significantly. Nevertheless, a decision to eliminate the veto must have more justification than this. Therefore, considering how the veto affects the Council's effectiveness is necessary.

C. How the Veto Undermines Council Effectiveness.

The Security Council is effective when it promotes unity, coercion, and justice. It more effectively promotes these values than any other organization the world has known. Nevertheless, the veto does not contribute to these values; it instead promotes disunity, prevents enforcement, and undermines the Council's image as an honest broker.

1. The veto promotes disunity.

Vetoes, to include the permanent member veto, "authorize a minority . . . even of one, to determine sanctioning policy for the whole general community. Inaction is as fraught with policy consequences as action and the failure to achieve decision may be the most significant kind of decision."<sup>295</sup> Vetoes frustrate unity by substituting minority control for majority control. This has occurred in the maintenance of peace and admission to the United Nations.

The veto substituted regional control for central

control over the maintenance of peace. While the community interest in monopolizing force to promote order is legitimate,<sup>296</sup> the veto's existence required that regional agencies also use force to promote order.<sup>297</sup> Yet, these agencies have achieved autonomy; they characterize their actions as self-defense and avoid Council scrutiny through the veto.<sup>298</sup> As a result, regional enforcement frustrates the unity sought through community monopolization of force.

During the United Nation's first few years, the veto substituted the community's interest in universal membership with rejections of states based on the permanent members' political views. The Soviet Union vetoed the membership applications of Eire, Transjordan, Portugal, Austria, Finland, and Italy.<sup>299</sup> Although Mongolia and Albania did not receive a majority vote in the Council, the United States opposed their applications.<sup>300</sup> The United States also prevented Communist China's membership for many years by threatening a veto.<sup>301</sup> These actions frustrated the unity sought through universal membership.

2. The veto prevents enforcement of community values.

The veto not only frustrates unity, but also prevents enforcement of community values.

The record of the Security Council is replete with cases in which it has been deadlocked, due to political cleavages splitting the five Permanent Members. When a breach of . . . the peace directly affects one of more of the Big Powers, or even their 'client States,' the veto power can be counted on to ensure that only an anodyne resolution will be adopted.<sup>302</sup>

The Security Council's inability to decide necessitates self-help.<sup>303</sup> Yet self-help promotes individual state values, not community values.<sup>304</sup> The result is a failure to enforce the following three community values.

First, the veto prevents the Council from applying the legal standards of aggression and self-defense. These standards are vague.<sup>305</sup> In addition, the Council does little to define them because the permanent members have competing interests in such cases. They rarely agree on the outcome of a case; and therefore, veto any proposal not completely in their favor. This

deadlock leaves the problem to individual states or regional agencies, who enforce their interests.

Second, the veto prevents the Council from enforcing responsibility for maintaining order. Because security is indivisible, each state not only benefits from, but also bears responsibility for international security. When a security breach exists, uninvolved states avoid the responsibility and cost. "Because of the veto, the Security Council may not be able to reach a decision . . .", thus leaving to individual states the decision whether to contribute.<sup>306</sup>

Third, and most significant, the veto prevents the Council from maintaining order. This has occurred most notably in Lebanon. Ever since Israel moved forces into southern Lebanon in 1982 in response to terrorist attacks, the Security Council has remained impotent. The Soviet Union vetoed a proposal to send a United Nations peacekeeping force into Lebanon out of concern that this would enhance United States power in the region.<sup>307</sup> The United States vetoed a counterproposal that merely condemned the Israeli action without providing a solution to the terrorist attacks.<sup>308</sup> Both proposals commanded overwhelming support. Yet, no

solution has come because the Council has acted more like a political grist mill than a problem-solver.

3. The veto undermines the Council's image as an honest broker.

The veto undermines the Council's effectiveness not only by frustrating unity and coercion, but also by undermining the Council's image as an honest broker.

Article 27 lays down that, in certain matters, a party to a dispute must abstain from voting in the Council. But the obligation does not apply to decisions under Chapter VII [which contains all sanctioning authority]. Hence, a Permanent Member may cast the veto, in a vote on the application of Chapter VII measures, notwithstanding the fact that it is a party to the dispute.<sup>309</sup>

Permanent members have often used the veto to protect their interests without regard for the community interest. For example, in 1989, the United States vetoed a proposed resolution deploring its invasion of Panama.<sup>310</sup> During the Panama operation, American soldiers mistakenly entered the Nicaraguan Ambassador's home in Panama City. Although President

Bush publicly apologized for the violation, the United States later vetoed a Council resolution "declaring that the search of the Nicaraguan Ambassador's residence . . . violated international law."<sup>311</sup> Given such clear conflicts of interest, doubts about whether the Council is an honest broker should be no surprise.<sup>312</sup>

#### 4. Summary.

The veto undermines the Council's effectiveness in maintaining the three values needed to ensure international security -unity, coercion, and justice. Although the Council promotes these more effectively than any organization in history, the veto does not contribute to them. Eliminating the veto would improve the Council's effectiveness.

#### D. How Eliminating the Veto Promotes Security Council Effectiveness.

A Security Council without a veto becomes less of a political grist mill and more of a problem-solver. This is precisely the effect that Ambassador Pickering has sought in his work at the United Nations.<sup>313</sup> Although the permanent members must forego their vetoes before this will happen,<sup>314</sup> acceptable conditions for

this are developing. The need for a veto has diminished. The world is multipolar rather than bipolar, making political compromise more realistic.<sup>315</sup>

Because the Security Council has never operated without the veto, one cannot compare the Council's effectiveness under both conditions.<sup>316</sup> Nevertheless, eliminating the veto should improve the Council. As the veto undermines Council effectiveness, so eliminating the veto promotes its effectiveness. When a single member can no longer determine sanctioning policy for the whole community, unity improves; sanctioning policy becomes more important to the community. When enforcement of community values becomes more certain, coercion improves; community compliance becomes more routine. When interested parties can no longer block adverse decisions, justice improves; community respect for the system grows.

Ambassador Pickering has demonstrated that a Council without a veto works.<sup>317</sup> His approach of seeking agreements all can support resulted in twelve resolutions covering the Persian Gulf crisis.<sup>318</sup> These united the international community to reverse the aggression, prevent terrorist attacks, and share the

burden.<sup>319</sup> The Council was extremely successful in the Persian Gulf, rekindling hopes for its future.<sup>320</sup> Ambassador Pickering's approach has also been successful in Cambodia and El Salvador.<sup>321</sup>

D. Summary.

The Security Council, as the organization best able to maintain international security, must act authoritatively to be effective. This requires not only legal authority, but also community acceptance of that authority. These two related; changes in each affect the other in the same direction. The historical trend has been toward increased authority and acceptance to the point where only the permanent members may avoid its decisions. Therefore, attention focuses on the veto. When permanent members use the veto, they undermine the Council's effectiveness. On the other hand, recent cases show that when the permanent members forego the veto, the Council is effective. Therefore, the international community should eliminate the veto.

V. THE UNITED STATES SHOULD MOVE TO ELIMINATE THE VETO.

The argument so far is that eliminating the



Security Council veto benefits the international community, and in turn, each member of the community. Nevertheless, to say that the community should eliminate the veto does not mean that the United States should agree. The United States must weigh the costs and benefits for itself.

Among the factors the United States should consider are: the extent to which an improved Council will benefit United States national security, the historical experience of the American union, and the degree of international influence the United States will have in the future. While these are difficult to quantify, they are important to consider.

To analyze the first factor is to restate the argument so far. Since security is indivisible, improving international security improves United States national security. Since international security improves as the Council acts effectively, improving the Council improves United States national security. Since the Council becomes more effective without the veto, eliminating the veto improves United States national security. While this argument should move the United States to eliminate the veto, we must also

consider the other factors.

Analysis of the second factor, the historical experience of the American union, provides some additional support. The colonies' options regarding commitment to the Constitution are similar to the United States' options regarding the veto. Although the cases are not exactly the same, many of the benefits of committing to the collective interest exist in both.<sup>322</sup> The colonies' commitment to the union, and the union's subsequent success support the position that committing to the community was worthwhile.

Whether the colonies would have prospered separately, and whether the international community would achieve similar success are both unclear.<sup>323</sup> Nevertheless, to argue that eliminating the veto is not worthwhile is to suggest that the colonies were wrong.

Analysis of the third factor suggests more strongly that the United States should seek to eliminate the veto. United States influence in the world is declining. Not only are other rivals rising to replace the Soviet Union, but the Third World is rising to challenge industrialized powers. The United States will have less influence in the international community

as time passes. Therefore, it should seek to incorporate its values into international practice while it still has persuasive control. To do this, the United States must include rising powers as equal partners in the Council. Otherwise, they will project their influence outside the Council where the United States has less influence.<sup>324</sup>

United States power is declining in relation to Europe and Japan. Europe is unifying, combining its economic and political power.<sup>325</sup> Japan is expanding throughout Asia region, becoming stronger economically, and seeking a prominent role in international security.<sup>326</sup> Germany and Japan seek permanent seats on the Security Council.<sup>327</sup> Should the United States not incorporate them into the Council on an equal basis, Germany and Japan will project their power outside the Council. As the United States sought to include the Soviet Union in 1945, so it should seek to include Germany and Japan.<sup>328</sup>

The United States should be concerned about rising power not only in Europe and Japan, but also in the Third World. Nicholas Eberstadt predicts that population growth in Third World countries will be much

faster than in industrial countries, generating increased economic power and political instability.<sup>329</sup> By the year 2025, "today's industrial democracies would account for less than one-fourteenth of the total population . . . [y]et would rank among the top in the world's population of geriatrics."<sup>330</sup> As these countries grow in population, so they grow in economic strength.<sup>331</sup> Because they do not share western values of individual rights, adherence to the rule of law, and respect for private property, their rise to power threatens the United States even as did the Cold War.<sup>332</sup>

Increasing Third World power should prompt the permanent members to unify and establish their values as legal norms while the opportunity exists. Eliminating the veto will improve their unity, enabling them to express their values through law.

The idea that the United States should submit to international control to achieve its best interests is not new. The United States committed to the United Nations, not expecting Soviet cooperation, but needing contact with the Soviet Union to cultivate future cooperation.<sup>333</sup> Soon after the atomic explosions at Hiroshima and Nagasaki the United States proposed

international control over atomic energy with no veto provision.<sup>334</sup> The United States realized its nuclear advantage would be short-lived; and, that once the Soviets developed an atomic bomb only international control would be adequate.<sup>335</sup> Although the Soviets did not agree, the United States' strategy was good. It is as good for dealing with Europe, Japan, and the Third World today as it was for dealing with the Soviet Union in the past.

Eliminating the veto is in the United States' best interests. All of the factors -the benefits of an improved Council, the United States' historical experience, and future projections of United States power- support this position. At this point, the remaining questions are how should the United States pursue eliminating the veto, and what voting mechanism should replace the veto. We consider them next.

#### VI. THE UNITED STATES SHOULD SEEK TO REPLACE THE VETO WITH A DOUBLE MAJORITY REQUIREMENT.

Eliminating the veto will improve the Council's ability to maintain international peace and security; therefore, it will improve United States national security. As the United States promotes an

alternative, however, it must work through the United Nations.<sup>336</sup> Seeking both community acceptance and the veto's elimination are important, since they go hand in hand.<sup>337</sup> Though the task will not be easy,<sup>338</sup> the United States should promote respect for the Council and a veto alternative.

A. Establishing Acceptable Conditions for a Veto Alternative.

1. Promoting community respect for Council authority.

Promoting respect for the Council's authority is most important; respect is a prerequisite to effectiveness. Therefore, the United States should promote United Nations operations, and maintain its channels of communication.<sup>339</sup>

The best way to engender respect for the Council is to use it effectively. The United States can do this in several ways. First, it can pursue Council action to restore security breaches as it did in the Persian Gulf.<sup>340</sup> Second, it can remove politics from the Council's investigative functions. Rather than vote on whether to investigate a case, the Council should investigate every case. This would take politics out

of the decision and increase respect for Council authority.<sup>341</sup> Third, the United States can assist other United Nations agencies to improve economic and social conditions throughout the world. "The helping hand of . . . service is a more impressive argument for . . . allegiance than the long arm of . . . justice."<sup>342</sup>

The United States should also maintain the Council's channels of communication. This was an important consideration during the formation of the United Nations.<sup>343</sup> Open lines of communication are needed to mold world leaders' views on the appropriate use of force, generate awareness of community problems and interests, educate the community, and develop community values.<sup>344</sup> If the Council is a forum for molding community views and solving community problems, it will gain respect.

2. Promoting community support for an alternative.

To establish acceptable conditions, the United States must promote not only respect for the Council, but also a veto alternative.<sup>345</sup> To this end, the United States should do the following. First, it should communicate the merits of its proposal to the

community. Second, it should work through persuasion rather than coercion.<sup>346</sup> Third, it should protect against majoritarian tyranny in the Council,<sup>347</sup> through a voting procedure, or an expansion of the Council's permanent membership.<sup>348</sup>

Fourth, the United States should ensure its proposal adequately limits the Council's power. James Madison correctly stated the problem. "In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."<sup>349</sup> Third World states are already concerned about this.<sup>350</sup>

The United Nations Charter already provides some protection: the General Assembly (where Third World countries have greater influence) elects non-permanent members to the Council, the non-permanent members are a majority on the Council, Council responsibilities are limited to security matters, and the Council must submit reports to the Assembly.<sup>351</sup> These provisions make the Council responsible to the international community; they limit its power. Other potential limitations merit consideration: specifying the areas



of domestic jurisdiction protected under article 2, paragraph 7, and incorporating civil rights protection into the Charter.<sup>352</sup>

B. The United States Should Recommend a Double Majority Voting Method as a Veto Alternative.

Promoting respect for the Council and for a veto alternative creates acceptable conditions for making the legal change. In addition to this, however, the United States should recommend the alternative best suited to the Council's functions and community's needs.

There are several possible alternatives: a simple majority, special majority (a requirement for a two-thirds concurrence), composite majority (a majority of permanent members and a majority of non-permanent members), and double majority (a majority of the entire Council and a majority of the permanent members). To determine which is best, we first must identify and define the criteria that make an alternative well-suited to the Council and community. Following that, we will evaluate the alternatives.

1. Defining criteria.

Many considerations impact on voting forms, but the

fundamental consideration is that the form be well suited to the institution's purposes.<sup>353</sup> The Security Council's purpose is to maintain international peace and security.<sup>354</sup> This requires unity, coercion, and justice. Therefore, the voting form should promote unity, coercion, and justice.

These three considerations are not enough, however, because legal forms are ineffective without community acceptance. Since the permanent members must consent to any Charter amendments, they must accept an alternative.

Analyzing the possible alternatives using these four criteria -unity, coercion, justice, and acceptance- is difficult for several reasons. First, the criteria are not independent variables. Second, their relative importance is not clear, except that acceptance is a practical necessity. Third, their meanings are not clear; they need some definition.

Unity means commitment to a common purpose.<sup>355</sup> When evaluating each alternative, one should ask which best promotes commitment to a common purpose. There are two important considerations here. First, special majorities allow minorities to dictate community

policy; therefore, they frustrate unity.<sup>356</sup> Majority consensus better determines policy than does minority consensus.<sup>357</sup> Therefore, an alternative that most often expresses a majority consensus is best. Second, voting should promote consensus, rather than merely parliamentary victory.<sup>358</sup> Where every party has a risk of losing, they will feel pressure to seek consensus. The veto removed this risk of losing. The result is what happened in Lebanon; counterproposals each received majority support, yet none passed and the crisis continued.<sup>359</sup> Ambassador Pickering's practice of seeking solutions all can support is better.<sup>360</sup>

Coercion is the ability to enforce community values.<sup>361</sup> When evaluating each alternative, one should ask which best promotes enforcement of community values.<sup>362</sup> Here, again, two considerations are important. First, the voting procedure must allow the organization quickly to determine an appropriate response.<sup>363</sup> The fewer states that must agree, the more quickly they will decide. Second, the voting procedure must ensure the organization musters sufficient power to enforce its decision.<sup>364</sup> These two considerations tend to work against each other. A procedure that

allows for a quick decision may not muster enough enforcement power. Conversely, a procedure that musters enough enforcement power may be slow to reach consensus.

Justice means having an honest broker.<sup>365</sup> When evaluating each alternative, one should ask under which the Security Council is most like an honest broker. Proposals must first correlate each state's capacity to influence decisions with its obligations to support the Council.<sup>366</sup> Where an imbalance exists the beneficiary will exploit the advantage.<sup>367</sup> This detracts from the Council's image as an honest broker. Next, proposals must prevent a particular state's self-interest from being decisive. The veto allowed any permanent member to paralyze the majority for its own interests.<sup>368</sup> To preserve impartiality, the voting method should force states' interests to compete with one another.

Acceptance is the willingness of states to adopt a proposal. The alternative which states most readily adopt is the best. The degree of unity, coercion, and justice in each alternative affects its acceptability; therefore, these values merit reconsideration here. In addition, there are two others. First, proposals that

protect against majoritarian tyranny are more acceptable than those that do not.<sup>369</sup> Second, proposals that oblige the Council to control itself are more acceptable than those that do not.<sup>370</sup> In other words, proposals that create natural conflicts of interest between powerful groups are good.

In summary, a veto alternative should serve the Council's purpose and the community's needs. These considerations suggest four criteria: the extent to which each promotes commitment to a common purpose, the extent to which each promotes enforcement of community values, the extent to which each allows the Council to act as an honest broker, and the extent to which the community accepts each. With these, we are ready to determine which alternative voting procedure is best.

## 2. Evaluating the alternatives.

### a. Applying the criteria.

#### 1) Unity.

Choosing the alternative that best promotes unity requires one to consider the total number that must agree, and the number of permanent members that must agree. Using these factors, the alternative that most easily expresses a majority consensus is the simple

majority, which requires agreement by any eight members. The next best alternative is the double majority, which requires agreement by eight members, including at least three permanent members. Third best is the composite majority, which requires a vote of nine- six non-permanent members and three permanent members. The special majority is least likely to achieve consensus, because it requires a vote of ten. One can debate whether achieving a higher number of votes, or the correct type of votes is more difficult. Nevertheless, the simple majority is better than the special majority; the double majority is better than the composite majority.

## 2) Coercion

To choose the alternative that best promotes coercion, one must consider how quickly the Council responds, and how much enforcement power it musters. Since the alternative that best promotes consensus responds most quickly, the analysis from the preceding paragraph applies here. The alternative that musters the most enforcement power is the composite majority (at least three permanent and six non-permanent members). Second best is the double majority (at least

three permanent and five non-permanent members). Third best is the special majority (at least ten members, none of which must be permanent members). Fourth best is the simple majority (at least eight members, none of which must be permanent members).

These two factors are inversely related, making comparisons difficult. For instance, although the composite majority musters the most enforcement power, it is less likely to order enforcement than are the simple majority or double majority. Also, while the simple majority quickly responds, it musters the least enforcement power.

Despite this difficulty, two conclusions are clear. First, the options that muster permanent member support are better than the others. Therefore, the composite majority and double majority have an advantage. Second, the difference between the composite majority and double majority is slight. Only the vote and support of one non-permanent member distinguishes the two. The double majority acts more quickly, but with less enforcement power.

### 3) Justice.

To choose the alternative under which the Council

is most like an honest broker, one must weigh two factors. First, which best correlates each state's capacity to influence decisions with its obligations to the Council? Second, which best prevents an individual member's self-interest from being decisive?

The double majority best correlates a state's capacity with its obligations. The simple majority and special majority make no distinction between the votes of permanent members and non-permanent members. Under these proposals, each state has equal capacity to influence decisions even though the permanent members have greater obligations. The composite majority is slightly better, because it allows a majority of the permanent members to negate Council actions.

Nevertheless, the non-permanent members also can negate Council actions. The result is that permanent members and non-permanent members still have equal capacity to influence Council decisions.

The double majority gives special status to only the permanent members. Under it, permanent members can pass resolutions as easily as under the simple majority. Each requires a vote of eight. Permanent members can pass resolutions more easily under it than



under the composite majority. These both require that at least three permanent members agree. Yet, the composite majority requires that at least six non-permanent members agree; while the double majority requires a maximum of five. In addition, the permanent members can negate Council actions as easily under the double majority as under the composite majority.

For the Council to act as an honest broker, it must also prevent the self-interest of a single member from paralyzing the whole community. The alternative that most easily overcomes the obstacle of self-interest is the alternative that best promotes unity. Therefore, the simple majority is best, followed in order by the double majority, composite majority, and special majority.

Considering both factors together suggests that the double majority is best. It best correlates states' capacities to influence decisions with their obligations; and is second best at preventing individual state self-interest from paralyzing the Council. Although the simple majority best prevents individual self-interest from paralyzing the Council, it poorly correlates capacity to influence decisions

and obligations to the Council. The special majority is weak at both. The composite majority is better than the special majority, but not as good as the double majority on either factor. Therefore, the double majority is most just.

4) Acceptance.

To choose which alternative is most acceptable, one must consider which best prevents majoritarian tyranny, and which best forces the Council to control itself.

The alternative that best prevents majoritarian tyranny is the one least likely to develop a consistent voting majority. This is the opposite of that which best develops unity. Preventing majoritarian tyranny gets easier as achieving unity gets harder. Since the special majority and composite majority require greater consensus, they are better able to prevent majoritarian tyranny than the others. The simple majority and double majority require less consensus; they are less able to prevent majoritarian tyranny.

Because the objectives of seeking unity and preventing majoritarian tyranny directly oppose each other, one must prioritize them. Professor Claude favors unity.<sup>371</sup> Indeed, if majoritarianism has any

value at all, unity must take priority over fears of majoritarian tyranny. Therefore, one should choose the proposal that best promotes unity over the one that best prevents majoritarian tyranny. Other methods exist to control majoritarian tyranny.

An acceptable proposal not only prevents majoritarian tyranny, but also forces the Council to control itself by setting groups against each other. The simple majority and special majority do not create tension between groups. On the other hand, the composite majority and double majority do; they set the permanent members against the non-permanent members. Because these proposals distinguish between permanent and non-permanent member votes, tension between these groups will naturally arise. Of these two, the composite majority better sets the two groups against each other because it requires agreement by a majority of both groups.

Considering both factors, the composite majority is most acceptable. It prevents majoritarian tyranny well, though this should be a minor factor. It also forces the Council to control itself better than the alternatives. The double majority is second best, only

slightly less effective than the composite majority on both factors. The special majority effectively prevents majoritarian tyranny, but provides marginal Council self-control. The simple majority provides the least protection against majoritarian tyranny and the least Council self-control.

The other criteria -unity, coercion, and justice- also affect a proposal's acceptability. Most notably, proposals that poorly correlate capacity to influence decisions with obligations to the Council are unacceptable. The simple majority, special majority, and composite majority have this disadvantage.

b. Comparing the alternatives.

Having applied the criteria to each alternative, we now compare them to determine which is best.

The simple majority is best at promoting unity, because it requires the fewest members to decide. This is its only advantage, however. A simple majority musters the least enforcement power of all the alternatives. While it is most decisive, its decisions have little punch. Also, it poorly correlates capacity to influence decisions with obligations to the Council. Finally, it is least acceptable. It provides the least

protection against majoritarian tyranny and least Council self-control. Because of the simple majority's many disadvantages, it is not a good choice.

The special majority is reasonably acceptable, because it protects against majoritarian tyranny. Nevertheless, it has many disadvantages. It promotes unity less effectively than the other proposals. It promotes coercion least effectively, responding slowly to security threats and mustering marginal support. No permanent members need concur. Finally, the special majority fails to correlate a state's capacity to influence decisions with its obligations to the Council. Because these disadvantages greatly outweigh its advantage, the special majority is not a good choice.

The composite majority effectively promotes coercion, (mustering the most enforcement power), and is most acceptable (best preventing majoritarian tyranny, and providing Council self-control). It has only two disadvantages. First, it promotes unity less effectively than the simple majority and double majority; it requires nine votes for a decision rather than eight. Second, it poorly correlates capacity to

influence decisions with obligations to the Council. Nevertheless, it is a good selection.

The double majority has only minor disadvantages. It is less acceptable than the composite majority. It also musters slightly less coercive power (one less non-permanent member's power) than does the composite majority. On the other hand, it makes the Council most like an honest broker, providing the best correlation between capacity to influence decisions and obligations to the Council. It also promotes unity more effectively than all alternatives except the simple majority. It, too, is a good selection.

Of these last two, the double majority is the better choice. It promotes unity slightly better than the composite majority, requiring eight votes rather than nine. Both promote coercion equally well. While the composite majority musters one more non-permanent member, the double majority more quickly decides to act. The differences here are very minor, and tend to counteract each other. The double majority makes the Council more just. It is the only alternative that correlates capacity to influence decisions with obligations to the Council. The double majority also

better prevents a permanent member's self-interest from paralyzing the Council. The composite majority has a significant advantage over the double majority in that it more effectively prevents majoritarian tyranny and forces the Council to control itself. Though the composite majority is a good choice, the double majority is better overall.

C. Summary.

The United States should continue its commitment to improve the Security Council by proposing a veto alternative. This will continue the trend toward increased respect for international authority, which grows more important as the world grows more integrated. To do this, the United States should develop conditions in the international community that will make a veto substitute acceptable. In particular, the United States should: work through the Council to resolve threats to international security, keep its communication lines open, and support its efforts to communicate community values. Also, the United States should propose a veto alternative in the United Nations so the international community can discuss and decide the issue. The United States should propose a double

majority voting method as the veto replacement for it best suits the Council and community.

## VII. CONCLUSIONS AND RECOMMENDATIONS.

### A. Conclusions.

The Cold War's end provides a new opportunity to improve international security structures. The ideological struggle over communism is over. A spirit of cooperation in international affairs has arisen. New regional powers are rising to assume their security roles.

Although times have changed, the same security challenges remain. Each state still struggles with choices between self-interest and the community interest. The same security threats also remain - fragmentation, regional competition, drug trafficking, terrorism, arms proliferation, and economic competition.

The world has become much more integrated since 1945. As a result, security threats anywhere affect states everywhere to a greater extent every day. Therefore, states must seek to improve international security in order to improve their own security.

To improve international security, states must



unite under the Security Council. Preserving security today requires unity, coercion, and justice. These three coexist only in a central international authority. Of all the international authorities in history, the United Nations Security Council has been the most effective.

Effective international authority requires both legal commitments and their acceptance. Each affects the other. The historical trend has been toward more authoritative international structure and increased community acceptance. The United Nations Security Council obligates states more than any previous authority. Nevertheless, the permanent members are still able to avoid legal commitments through the veto.

Recent Security Council successes have raised the question whether permanent members should retain the veto. Since the legal structure affects the community's acceptance of authority, the outcome is important.

The veto has diminished respect for international authority in the past. It has frustrated unity in the Council, prevented enforcement of community values, and diminished the Council's image as an honest broker.

Eliminating the veto would force the Council members to seek acceptable solutions rather than block all provisions not completely in their interest. They would take greater interest in the Council's work, because the outcome more likely would be implemented.

Although the permanent members would not commit themselves to future Council decisions in 1945, conditions are quite different today. The justifications for the veto have diminished. The ideological conflict over communism is over. More and more, states have expressed their support of the Council in word and deed. The veto has fallen into relative disuse.

The United States should support the veto's elimination. Eliminating the veto improves the Council, which improves international security and United States national security. The United States must include regional powers as equal participants in the Council, or they will compete with the United States outside the Council's structure.

The United States should propose a double majority voting method to replace the veto. This is a requirement that a majority of the Council and a

majority of the permanent members concur in any resolution. This voting procedure best suits the community's needs and Council's purpose.

B. Recommendations.

1. The United States should seek to replace the permanent member veto with a double majority voting method.

2. The United States should promote conditions in the international community that will foster acceptance of this voting method. Specifically, the United States should begin discussion of the voting procedure in the United Nations.

3. The United States should promote conditions in the international community that generate respect for the Council's functions. It should rely on the Council to resolve security threats, foster cooperation, and include rising regional powers and Third World countries in an international security structure.

C. Closing.

Throughout history, mankind has hoped for a world order with peace and prosperity for all. Yet, opportunities to bring it about rarely occur. As we

face the new world, our task is not whether we will create a world of complete peace, but whether we will seize the opportunity to move toward that goal. May the dream of a new world order become reality; may our hands never cease from the labor needed to make it so.

1. The White House, National Security Strategy of the United States V (August 1991) [hereinafter Natsec Strategy].
2. Ecclesiastes 1:9 (King James).
3. See Natsec Strategy, supra note 1, at 2. see also Carl E. Vuono, National Strategy and the Army of the 1990's, Parameters, Summer 1991, at 2.
4. See Richard Holbrooke, Japan and the United States: Ending the Unequal Partnership, Council on Foreign Relations, Winter 1991, available in LEXIS, INTLAW Library, FORAFR File [hereinafter Holbrooke]; Trevor Rowe, Bush Said to Sign on for Proposed Security Council Summit, Washington Post, January 8, 1992, at A16.
5. See e.g., Burrus M. Carnahan, Chemical Arms Control, Trade Secrets, and the Constitution: Facing the Unresolved Issues, 25 International Lawyer 167, 168 (Spring 1991) [hereinafter Carnahan] (arguing that chemical arms control is a global problem); The Honorable H. Lawrence Garrett III et al., The Way Ahead, Proceedings, Apr. 1991, at 37 (arguing that conflict will come from nationalism, religious rivalries, drug trafficking, terrorism, growing gaps between rich and poor, etc.); Holbrooke,

supra note 4 (arguing that strained relations between Japan and the United States is a significant security concern); Carl E. Vuono, National Strategy and the Army of the 1990's, Parameters, Summer 1991, at 2 (Iraq invaded Kuwait even as the Cold War was waning); Secretary of State James Baker, Address at the UN General Assembly Special Session on Narcotics (Feb. 20, 1990) available in LEXIS, INTLAW library, DSTATE file [hereinafter Baker on Narcotics] (arguing that the drug trade is a security threat requiring cooperation through the United Nations).

6. See Yoram Dinstein, War, Aggression and Self Defence 231 (1988) [hereinafter Dinstein]; Natsec Strategy, supra note 1 at 1.

7. See Inis L. Claude, Jr., Swords Into Plowshares - The Problems and Progress of International Organization 48-9 (4th ed. 1971) [hereinafter Claude].

8. See Yoichi Funabashi, Japan and the New World Order, Foreign Affairs, Winter 1991, at 58 available in LEXIS, INTLAW library, FORAFR file [hereinafter Funabashi] (arguing that the United States will be under financial limitations which will render it unable to meet international security challenges alone); Eduardo Lachica, U.S. Should Alter Its Policies on Trade to Halt

Competitive Decline, Study Says, Wall St. J., Nov. 14, 1991, at A16 (citing a report indicating that the U.S. is falling international competitors in manufacturing); Mark Alan Stamaty, An Active Europe, a Passive United States, Washington Post, Nov. 25, 1991, at A21 [hereinafter Stamaty] (arguing that the U.S. power is less than assumed and that the U.S. role in defining the new world order is being challenged).

9. Wilson A. Shoffner, SASO to FMSO: Assessing the New World Order, Military Review, Dec. 1991, at preface.

10. Natsec Strategy, supra note 1, at 3.

11. See Cass R. Sunstein, Constitutionalism and Secession, 58 U. Chi. L. Rev. 633, 640 (1991) [hereinafter Sunstein].

12. See Claude, supra note 7, at 253 (on the need for commitment to the collective interest); at 5, 39 (on the need to protect individual independence and sovereignty).

13. Myres S. McDougal & Florentino P. Feliciano, Law and Minimum World Public Order 356 (1961) [hereinafter McDougal & Feliciano].

14. Sylvester John Hemleben, Plans for World Peace through Six Centuries 128 (1943) [hereinafter Hemleben].

15. Id. ("Not a single power . . . was willing to bind itself by a hard and fast rule to submit all questions to arbitration, and least of all the United States.").

16. Id. at 137.

17. League of Nations Covenant art. 5, para. 1.

18. U.N. Charter art. 24, 25, 27.

19. U.N. Charter art. 27, para. 3 (stating "[d]ecisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members . . . ." (emphasis added)). The phrase "all other matters" means nonprocedural matters, a clause subject to varied interpretation.); See U.N. Charter art. 27, para. 2; Leland M. Goodrich & Edvard Hambro, Charter of the United Nations 221-3 (2d ed. 1949) [hereinafter Goodrich and Hambro].

20. Claude, supra note 7, at 61-62.

21. Id. at 155.

22. Goodrich & Hambro, supra note 19, at 215.

23. Id. at 219 (The permanent members "suggested that the



proposed text and statement of interpretation were as far as their Governments were prepared to go, and called attention to the serious consequences that would follow so far as the work of the Conference was concerned from any rejection of the proposed text."); see also Claude, supra note 7 at 143 (quoting Secretary of State Hull to say that the United States supported the veto and would not have participated in the United Nations without it).

24. Thomas M. Franck, United Nations Based Prospects for a New Global Order, 22 International Law and Politics 601, 614-5 [hereinafter Franck].

25. Franck, supra note 24 at 601.

26. Claude, supra note 7, at 251 (quoting Kant).

27. Id. (quoting Neville Chamberlain, Prime Minister of Great Britain to show his acceptance of the indivisibility of peace and security).

28. See Claude, supra note 7, at 250-1.

29. U.N. Charter preamble (stating the determination "to unite our strength to maintain international peace and security"); art.

1, para. 1 (stating the purpose "[t]o maintain international peace and security, and to that end: to take effective collective measures . . ."); art. 24, para. 1 (establishing the Security Council with responsibility to maintain international peace and security); art. 52-54 (providing for regional security subject to Security Council authority).

30. See John Lewis Gaddis, Toward the Post-Cold War World, Council on Foreign Relations, Spring 1991, available in LEXIS, INTLAW Library, FORAFR File [hereinafter Gaddis] (describing the ways in which the world is becoming integrated); Miles Kahler, The International Political Economy, Council on Foreign Relations, Fall 1990, available in LEXIS, INTLAW Library, FORAFR File [hereinafter Kahler]; Anant K. Sundaram, National Sovereignty to Blame for BCCI Scandal, Wall St. J., Oct. 24, 1991, at A17 [hereinafter Sundaram].

31. Gaddis, supra note 30.

32. Natsec Strategy, supra note 1, at 2.

33. Id. at 33.

34. Gaddis, supra note 30.

35. Id.

36. Carl Mollins, Highlight: Three Summer Days Turned History Upside Down, Maclean Hunter Limited, Dec. 23, 1991, available in LEXIS, INTLAW Library, ASIL File.

37. Adi Ignatius, Black Sea Fleet Stranded in Tug-of-War, Wall St. J., Jan. 17, 1992, at A8; Eleanor Randolph, Yeltsin Says Black Sea Naval Fleet Must Belong to Russia, Not Ukraine, Washington Post, Jan. 10, 1992, at A14.

38. Graham Allison & Robert Blackwill, America's Stake in the Soviet Future, Council on Foreign Relations, Summer 1991, available in LEXIS, INTLAW Library, FORAFR File [hereinafter Allison & Blackwill].

39. Eleanor Randolph, Yeltsin Says Black Sea Naval Fleet Must Belong to Russia, Not Ukraine, Washington Post, Jan. 10, 1992, at A14.

40. John J. Fialka, Ukrainians Resist U.S. Efforts to Beat Their Nuclear Swords Into Plowshares, Wall St. J., Dec. 6, 1991, at A16.

41. Keith Bradsher, Noting Soviet Eclipse, Baker Sees Arms

Risks, N.Y. Times, Dec. 9, 1991, at A8 (quoting Secretary Baker to say that this is "an extraordinarily dangerous situation for Europe and for the rest of the world -- indeed for the United States").

42. Jeffrey Smith, Gates Fears Soviet 'Brain Drain,' Washington Post, Jan. 16, 1992, at A22 (quoting CIA Director Gates).

43. Jeffrey Smith, Nuclear Experts Going to Russia, Washington Post, Jan. 10, 1992, at A14.

44. Greece President Fears Balkan Disturbans [sic] May Threaten Greece, Xinhua, Oct. 27, 1991, available in LEXIS, Nexis Library, XINHUA File [hereinafter Greece President Fears].

45. William Drozdiak, Iran and Turkey Vie for Political, Economic Influence in Soviet Muslim States, Washington Post, Nov. 24, 1991, at A27.

46. The Political Scene; Nationalism, Tension in the Republics, Economist Publications Ltd., Oct. 2, 1990, available in LEXIS, INTLAW Library, ASIL File [hereinafter The Political Scene].

47. Blaine Harden, Unarmed U.N. Officers Begin Yugoslav Mission, Washington Post, Jan. 15, 1992, at A20.

48. The Political Scene, supra note 46.

49. Id.

50. Peter Hayes, ed., Chronology 1990; Africa, Council on Foreign Relations, 1990, available in LEXIS, INTLAW Library, FORAFR File.

51. See Genscher Calls for Security Council Move on Yugoslavia Crisis, Agence France Presse, Nov. 22, 1991, available in LEXIS, ALERT Library, ALERT File [hereinafter Genscher on Yugoslavia].

52. See Sunstein, supra note 11, at 654.

53. Steven L. Burg, Nationalism and Democratization in Yugoslavia, Center for Strategic and International Studies, 1991, available in LEXIS, Nexis Library, WASHQR File [hereinafter Burg].

54. G.A. Res. 34/93, U.N. GAOR, 34th Sess., Supp. No. 46, at 29-38, U.N. Doc. A/34/46 (1979); G.A. Res. 35/206, U.N. GAOR, 35th Sess., Supp. No. 48, at 29-39, U.N. Doc. A/35/48 (1980).

55. Arthur Schlesinger, Jr., Self-Determination: Yes, but . . ., Wall St. J., Sept. 27, 1991, at A10 (arguing "[i]f Armenia is independent, then why not Catalonia . . . Slovakia? Corsica?

Brittany? Wallonia? Jersey? Scotland? Quebec? Every minority contains minorities of its own. Where does self-determination stop?" Self-determination is not bad; but it does involve security risks for the international community.); See generally Gaddis, supra note 30 (discussing the pros and cons of fragmentation).

56. See Robert S. Greensberger, Economic, Ethnic, Nationalist Forces May Pull Stitches of Russia-Led Commonwealth Apart Soon, Wall St. J., Dec. 31, 1991, at A8 (reporting fragmentation within the Russian republic itself); The Political Scene, supra note 46.

57. Gaddis, supra note 30.

58. Claude, supra note 7, at 103.

59. Id. at 102-3.

60. Id. at 102-103, at 113 (citing Churchill's support of regionalism).

61. Id. at 113 (citing President Wilson's view that regionalism leads to "war-breeding competitive alliances").

62. Natsec Strategy, supra note 1, at 7.

63. Gerald F. Seib and Larry M. Greenburg, Baker says U.S. Backs E.C. Unity as Long as Free Trade Prevails, Wall St. J., Dec. 6, 1991, at A11; Stamaty, supra note 8.

64. Kahler, supra note 30 (citing that the United States imposes trade controls and questioning whether the national interest in liberal markets is politically acceptable).

65. New Union, New Upheavals For Europe, U.S. News & World Report, Dec. 23, 1991, at 13 [hereinafter New Union].

66. Stamaty, supra note 8 (noting France's and Germany's suggestion of a European defense force); see Jeane Kirkpatrick, Slouching Toward European Unity, Washington Post, Dec. 2, 1991, at A17 (stating that a unified foreign and security policy are likely); New Union, supra note 65 (relating commitments to start joint diplomacy and joint defense compatible with NATO).

67. Funabashi, supra note 8.

68. See Funabashi, supra note 8.

69. Holbrooke, supra note 4.

70. United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988,

preamble, Senate Treaty Document No. 101-4, 28 I.L.M. 493, 498 [hereinafter Narcotics Convention].

71. Baker on Narcotics, supra note 5; Charles Lane et al., The Newest War, Newsweek, Jan. 6, 1992, at 18-19 [hereinafter Lane].

72. Natsec Strategy, supra note 1, at 17.

73. Baker on Narcotics, supra note 5.

74. Natsec Strategy, supra note 1, at 17.

75. See Bruce M. Bagley, Colombia and the War on Drugs, Council on Foreign Relations, Fall 1988, available in LEXIS, INTLAW Library, FORAFR File [hereinafter Bagley]. (The Medellin cartel earns over \$2 billion each year. Cocaine tops coffee as a foreign exchange earner. Over 80,000 people depend on cocaine traffic for their living. If there can be any positive factor, Colombia has not fallen behind in debt payments in over ten years. "In the last three years alone, Colombia's drug bosses have been responsible for the assassination of one minister of justice . . . one attorney general, more than 50 judges, at least a dozen journalists, and more than 400 police and military personnel." Traffickers have married their children into prominent Colombian families.).



76. Convening of ministerial-level world meeting on drug problems approved by Assembly, OPI, Feb. 1986, available in LEXIS, INTLAW Library, UNCHRN File (quoting Under-Secretary-General for Political and General Assembly Affairs William B. Buffum).

77. Bagley, supra note 75 (The United States ordered sanctions against Colombia for its refusal to extradite traffickers, to include detailed customs checks of Colombians. "These actions fueled rising nationalism and anti-U.S. resentments, and led many Colombians to conclude that U.S. authorities did not understand the country's precarious situation.").

78. Fact Sheet: International Narcotics Control--1990, U.S. Department of State, June 10, 1991, available in LEXIS, INTLAW Library, DSTATE File.

79. Lane, supra note 71, at 21-2 (Bolivia is concerned about military assistance because they fear corruption in their military, "which last made headlines when the 'cocaine colonels' took power in a 1980 coup." Military assistance is likely to benefit the traffickers more than the government. "Of the 900 soldiers now being trained, 85 percent are conscripts on one-year hitches . . . Many have relatives working in the drug

industry who may well hire the recruits as security guards, paying a premium for U.S. know-how.").

80. Id.

81. See Andreas F. Lowenfeld, Kidnapping by Government Order: A Follow-Up, 84 A.J.I.L. 712, 713-4 (1990).

82. Bagley, supra note 75.

83. See Sundaram, supra note 30.

84. Bagley, supra note 75; Lane, supra note 71, at 18.

85. Abraham D. Sofaer, Terrorism, the Law, and the National Defense, 126 Mil. L. Rev. 122 (1989) [hereinafter Sofaer].

86. International Cooperation Counters Iraqi Terrorist Threats, U.S. Department of State, July 1, 1991, available in LEXIS, INTLAW Library, DSTATE File [hereinafter Cooperation Counters Iraqi Terror] (While no attacks occurred in the United States, terrorists killed one American and attempted to bomb the American Embassy in Jakarta. Iraqi diplomats connected with terrorist attempts in Asia were expelled.).

87. See Natsec Strategy, supra note 1, at 3.

88. G.A. Res. 34/145, U.N. GAOR, 34th Sess., Supp. No. 46, at 244, U.N. Doc. A/RES/34/145 (1980); 19 I.L.M. 533, 535 (1980) (The U.S. abstained.).

89. See British Rights, Chicago Tribune, Nov. 18, 1988, at 26 (discussing U.S. support of Britain in the conflict in Northern Ireland); Linda Greenhouse, Extradition is Proving a Touchy Subject for the Senate, N.Y. Times, May 18, 1986, at section 4, page 4 (discussing U.S. efforts to extradite Joseph Doherty to Britain).

90. Cooperation Counters Iraqi Terror, supra note 86.

91. Sofaer, supra note 85, at 103-4; John M. Goshko, Anti-Libyan Action in Airliner Bombings Eased, Washington Post, Jan. 3, 1992, at A15.

92. See S.C. Res. 579, U.N. SCOR, 40th Sess., Resolutions for 1985, at 24, U.N. Doc. S/RES/579 (1985); 25 I.L.M. 243 (1986).

93. Sofaer, supra note 85, at 94-5 (Sofaer says these attacks have become a "substantial threat to the national security of the United States." In 1988, 232 U.S. citizens were victims of terrorism.).

94. See Id. at 106 (stating "terrorists need bases . . . to live and work, to train, to store their weapons, to make their bombs, and to hold hostages. The States . . . are almost invariably unable or unwilling to extradite them. . . The only possible remedies . . . often would require infringement of the territorial integrity of the State.").

95. Id. at 110; See also Memorandum from William P. Barr, Assistant Attorney General, to Dick Thornburgh, Attorney General, Authority of the Federal Bureau of Investigation to Override Customary or other International Law in the Course of Extraterritorial Law Enforcement Activities, June 21, 1989.

96. Claude, supra note 7, at 286-287.

97. John J. Fialka, The Risk Now Posed By the Soviet 'Nukes' Is One of Management, Wall St. J., Nov. 20, 1991, at A1, 10 (The U.S. and Soviet Union agreed to destroy these Scud warheads. The expected cost to destroy all of them is over \$2 billion. Because the U.S. fears that terrorists could steal them, some policymakers favor providing the funds for their destruction.); See Keith Bradsher, Noting Soviet Eclipse, Baker Sees Arms Risks, N.Y. Times, Dec. 9, 1991, at A8; David Gergen, The New Rules of Engagement, U.S. News & World Report, Dec. 9, 1991, at 88.

98. John J. Fialka, The Risk Now Posed By the Soviet 'Nukes' is One of Management, Wall St. J., Nov. 20, 1991, at A1.

99. See Natsec Strategy, supra note 1, at 15 (citing Iraq's receipt of technology and assistance from Western companies); John J. Fialka, Ruined Iraqi Chemical-Weapons Site May Yield Identities of Foreigners Who Helped to Create It, Wall St. J., Oct. 29, 1991, at A24; R. Jeffrey Smith, Gates Fears Soviet 'Brain Drain', Washington Post, Jan. 16, 1992, at A22.

100. See, e.g., Goodrich & Hambro, supra note 19, at 119-120 (explaining Soviet opposition to international control of atomic energy because it interfered in internal affairs).

101. See Leland M. Goodrich & Anne P. Simons, The United Nations and the Maintenance of International Peace and Security 526 (1955) [hereinafter Goodrich & Simons] (citing the U.N.'s recognition that international regulation of armaments must "ensure national safety and . . . effective collective measures to prevent and suppress threats to and breaches of the peace . . ."); Assistant Secretary for Politico-Military Affairs Richard A. Clarke, Address before the Subcommittees on Europe and the Middle East and on Arms Control, International Security, and Science, House Foreign Affairs Committee (June 27, 1991) available in

LEXIS, INTLAW Library, DSTATE File [hereinafter Clarke]  
(describing U.S. policy in deciding who receives U.S. arms, and  
highlighting conflicts between U.S. interests and the  
international community's interests).

102. Natsec Strategy, supra note 1, at 27 (stating, "changes in  
our relationship with the Soviet Union and . . . Eastern Europe  
have markedly reduced the danger of a war in Europe that could  
escalate to the strategic nuclear level. At the same time, the  
threat posed by global ballistic-missile proliferation . . . has  
grown considerably."); H. Lawrence Garrett III, et al., The Way  
Ahead, Proceedings, Apr. 1991, at 37 (stating, "[a]s major  
military powers reduce forces and pull back from forward  
positions, regional powers and emerging Third World nations will  
accelerate their acquisition of modern combat weapons and  
delivery platforms. . . . [R]egional powers will continue to  
develop and acquire the technology to pose chemical, biological,  
and nuclear threats."); J.H. Binford Peay III & Jack A. LeCuyer,  
Gearing the Force For Crisis Response, Army, Oct. 1991, at 152.

103. Allison & Blackwill, supra note 38.

104. Id; Keith Bradsher, Noting Soviet Eclipse, Baker Sees Arms  
Risks, N.Y. Times, Dec. 9, 1991, at A8 (citing Secretary Baker's

support); David Gergen, The New Rules Of Engagement, U.S. News & World Report, Dec. 9, 1991, at 88 (citing support of Senators Nunn, Lugar, and Boren); Margaret Shapiro, Angry Russians Confront Yeltsin, Washington Post, Jan. 9, 1992, at A33 (The four leaders have veto power through a telephone line. It is not clear from the article how the affirmative decision to launch is made or executed.).

105. R. Jeffrey Smith, Gates Fears Soviet 'Brain Drain,' Washington Post, Jan. 16, 1992, at A22.

106. Libyans Said to Woo Russian Atom Scientists, Washington Post, Jan. 9, 1992, at A37 (stating that Libya offered each \$2,000 per month salary. Also, an unnamed foreign government offered a Russian Nuclear Ministry expert \$5,000 per month.); R. Jeffrey Smith, Nuclear Experts Going to Russia, Washington Post, Jan. 10, 1992, at A14.

107. Gaddis, supra note 30.

108. S.C. Res. 687, U.N. SCOR, 46th Sess., 2981st mtg., U.N. Doc. S/RES/687, available in LEXIS, INTLAW Library, DSTATE File (Articles 8 and 9 require international supervision of the destruction or removal of all chemical and biological weapons. .

This includes disclosure of all chemical, biological, and nuclear materials and acceptance of a commission to inspect Iraq's nuclear capabilities.); Ahmad Chalabi, An Iraq Without Saddam Is Still Possible, Wall St. J., Nov. 13, 1991, at A16 (citing Iraqi recalcitrance); John M. Goshko, Iraq May Get Inventory of Papers, Washington Post, Sept. 27, 1991, at A1, 22 (reporting that Iraqi soldiers seized 44 U.N. inspectors for three days.); U.N. bans Iraqi nuclear operations, The Daily Progress (Charlottesville), Oct. 12, 1991, at A5 (quoting the Iraqi Ambassador to say that the resolution violated Iraqi sovereignty).

109. See supra notes 105-106.

110. See Natsec Strategy, supra note 1, at 15 (citing that Libya and Iraq received technology and assistance from Western companies), and at 21 (citing the national interest in maintaining a military technology base); John J. Fialka, Ruined Iraqi Chemical-Weapons Site May Yield Identities of Foreigners Who Helped to Create It, Wall St. J., Oct. 29, 1991, at A24.

111. The 38th Floor, OPI, Aug. 1986, available in LEXIS, INTLAW Library, UNCHRN File (quoting Javier Perez de Cuellar's comments on World Environment Day, June 5, 1986).



112. Id.

113. See Undersecretary of State for Political Affairs Robert M. Kimmitt, Address at the American Bar Association (Apr. 25, 1991), available in LEXIS, INTLAW Library, DSTATE File [hereinafter Kimmitt].

114. See Natsec Strategy, supra note 1, at 6 (recognizing the need to preserve partnerships with Germany and Japan in the face of economic competition); Holbrooke, supra note 4 (noting how the Soviet threat tended to smooth over economic disputes between the U.S. and Japan, and describing current tension in the relationship); Kahler, supra note 30 (questioning U.S. support for the European Community once the Soviet threat fades).

115. Laurence McQuillan, U.S. to Apply Yugoslavia Sanctions, Bush Sees Democracy Threat, Reuters, Nov. 9, 1991, available in LEXIS, NEXIS Library, REUTER File.

116. Gaddis, supra note 30.

117. See Natsec Strategy, supra note 1 at 6, 19-22.

118. Kimmitt, supra note 113.

119. J.H. Binford Peay III & Jack A. LeCuyer, Gearing the Force For Crisis Response, Army, Oct. 1991, at 152.

120. Holbrooke, supra note 4.

121. Kimmitt, supra note 113; See also, Natsec Strategy, supra note 1, at 21 (stating, "[s]ecure . . . supplies of energy are essential to our national economic prosperity and security. For the foreseeable future, oil will remain a vital element in our energy mix. . . . We will also maintain our [military] capability to respond to requests to protect vital oil facilities, on land or at sea . . .").

122. See Natsec Strategy, supra note 1, at 6 (stating, "we find ourselves competitors - sometimes bitter competitors - in the economic arena. These frictions must be managed . . ."); Funabashi, supra note 8; Holbrooke, supra note 4; Kahler, supra note 30; Laurence McQuillan, U.S. to Apply Yugoslavia Sanctions, Bush Sees Democracy Threat, Reuters, Nov. 9, 1991, available in LEXIS, NEXIS Library, REUTER File (quoting President Bush, "[w]e must guard against the danger that old Cold War Allies will become new economic adversaries - Cold Warriors turned trade warriors").

123. Holbrooke, supra note 4.

124. Id.; Funabashi, supra note 8.

125. Holbrooke, supra note 4.

126. Id. (Gallup conducted the polls. The belief that Japan's economic power threatened the U.S. was more commonly held than any other threat polled.).

127. Gerald F. Seib & Larry M. Greenberg, Baker Says U.S. Backs EC Unity As Long as Fair Trade Prevails, Wall St. J., Dec. 6, 1991, at A11 (quoting Secretary Baker to say, "we hope it is in fact a process that breaks down trade barriers, that liberalizes trade, and does not create any sort of bloc or protectionism").

128. See New Union, supra note 65 (quoting President Mitterand of France to say "Europe will be the top power by the next century"); Stamaty, supra note 8 (pointing out that the EC is making decisions about its future in a forum that excludes U.S. participation).

129. H. Lawrence Garrett III, et al., The Way Ahead, Proceedings, Apr. 1991, at 37.

130. Kahler, supra note 30; See e.g., The 38th Floor, OPI, Aug. 1986, available in LEXIS, INTLAW Library, UNCHR File (quoting Javier Perez de Cuellar's speech to the Congress of Bolivia, "Bolivia's experience in recent years could be said to epitomize the distressing struggle of many . . . which are caught between the Scylla of the policies of adjustment which the prevailing economic conditions demand and the Charybdis of their . . . commitment to satisfying their people's just hopes for a better life").

131. 'Fewer weapons and more development in all regions': eminent panel recommends steps to link disarmament and development, OPI, Aug. 1986, available in LEXIS, INTLAW Library, UNCHR File (quoting Inga Thorsson, Sweden's former Under-Secretary of State for Foreign Affairs).

132. Gaddis, supra note 30 (reporting that some companies are able to evade legal controls); John J. Fialka, Ruined Iraqi Chemical-Weapons Site May Yield Identities of Foreigners Who Helped to Create It, Wall St. J., Oct. 29, 1991, at A24 (reporting specifics on the Iraqi program).

133. Carnahan, supra note 5, at 177.

134. The Federalist No. 6, at 113 (Alexander Hamilton)(Benjamin Fletcher Wright ed., 1961)(quoting Vide, Principes des Negociations, par l'Abbe de Mably).

135. Claude, supra note 7, at 251 (arguing that indivisibility demands "loyalty to the world community," under a conviction that "what is good for world peace is necessarily good for the nation").

136. Id.

137. See McDougal & Feliciano, supra note 13, at 373-375 (noting the importance of creating legal structures to ensure unity, and arguing for the need to develop conditions that will decisionmakers to commit to the collective interest).

138. The Federalist Nos. 3, 5 (John Jay)(Benjamin Fletcher Wright ed., 1961)(regarding internal security and economic prosperity), No. 8 (Alexander Hamilton)(regarding economic prosperity), No. 10 (James Madison)(regarding internal security), No. 41, at 296 (James Madison)(arguing that a standing military force is a threat to freedom, and stating,

The Union itself . . . destroys every pretext for a military establishment which could be dangerous.

America united, with a handful of troops, or without a single soldier, exhibits a more forbidding posture to foreign ambition than America disunited, with a hundred thousand veterans ready for combat. . . . the want of this pretext had saved the liberties of one nation in Europe.);

Hemleben, supra note 14, at 118-9 (regarding internal security and economic prosperity); McDougal & Feliciano, supra note 13, at 95 (arguing with regard to burden sharing, that from clarification of common values could come a movement toward "an inclusive public order of safety, freedom, and abundance and . . . a wide sharing of responsibility for the maintenance of such order").

139. Hemleben, supra note 14, at 193 (quoting Nicholas Murray Butler, *the Path to Peace: Essays and Addresses on Peace and Its Making* 49-50 (1930)).

140. See Goodrich & Simons, supra note 101, at 454-7 (citing United Nations unity), at 494 (noting general agreement that U.N. intervention accomplished its objectives in Korea); John M. Goshko, A World of Difference at the United Nations, *Washington Post*, Nov. 12, 1991, at A19 (noting Ambassador Pickering's

commitment to U.N. unity against Saddam. The article also notes recent U.N. success in unifying to resolve problems in Cambodia and El Salvador, and U.N. efforts to resolve problems in Yugoslavia and Cyprus.); Assistant Secretary of State for Near Eastern and South Asian Affairs Edward P. Djerejian, Statement before the Subcommittee on Europe and the Middle East of the House Foreign Affairs Committee (Nov. 20, 1991) available in LEXIS, INTLAW Library, DSTATE File (stating, "the victory of the US-led coalition in Desert Storm reversed Saddam Hussein's aggression against his neighbors. Ever since, the international community has shown its determination to ensure that Iraq complies with all its UN-mandated obligations.").

141. See Coming together, coming apart, The Economist (U.K. edition), Dec. 7, 1991, at 51 (noting the peaceful integration of Western Europe and stating, "For the East, the lesson from Western Europe is that close co-operation with the neighbours [sic] is the way to prosperity, and the way to keep historical hatreds in check . . .").

142. See Goodrich & Hambro, supra note 19, at 211-213.

143. Goodrich & Simons, supra note 101, at 439-40.

144. See Text calling for comprehensive mandatory sanctions against South Africa vetoed after discussion in eight meetings, OPI, Aug. 1987, available in LEXIS, INTLAW Library, UNCHR File (Several African states proposed mandatory sanctions against South Africa. The United States and United Kingdom vetoed the draft Security Resolution (S/18785), claiming it would be counterproductive to their efforts to resolve the issue diplomatically. Regardless of which approach is correct, the disagreement (disunity) provided South Africa room to maneuver between opposing sides of the Council, stalling efforts by the international community to change its apartheid policy.); Text calling for mandatory selective sanctions against South Africa vetoed in Security Council, OPI, Jan. 1986, available in LEXIS, INTLAW Library, UNCHR File (noting a United States and United Kingdom veto of a similar earlier resolution).

145. See Council session on southern Lebanon; United Nations Security Council, OPI, June 1988, available in LEXIS, INTLAW Library, UNCHR File (noting a U.S. veto of a resolution condemning Israel for its invasion of Lebanon); United States vetoes draft resolution condemning Israeli acts in Lebanon, OPI, Mar. 1985, available in LEXIS, INTLAW Library, UNCHR File; United States vetoes Security Council proposal concerning Israeli



measures in Lebanon; Includes summaries of delegates' speeches,  
OPI, July 1984, available in LEXIS, INTLAW Library, UNCHRN File;  
Proposed UN force for Lebanon rejected in Security Council;  
Soviet veto, OPI, Mar. 1984, available in LEXIS, INTLAW Library,  
UNCHRN File (reporting a Soviet veto to a U.S. proposal to send a  
U.N. peacekeeping force to Lebanon for fear of increased U.S.  
power in the region).

146. See Natsec Strategy, supra note 1, at 2.

147. The Political Scene, supra note 46 (quoting Senator Dole  
after a visit to Yugoslavia to say, "the Serbian government is  
systematically destroying the human rights of the Albanians," and  
citing a government refusal to allow a human rights delegation to  
enter the country).

148. Jacob W. Kipp & Timothy L. Sanz, The Yugoslav People's  
Army, Between Civil War and Disintegration, Military Review, Dec.  
1991, at 39; Greece President Fears, supra note 44; see Sunstein,  
supra note 11, at 654.

149. Douglas Hurd, Averting a Balkan tragedy, The Times  
(London), Dec. 3, 1991, available in LEXIS, Nexis Library, TTIMES  
File [hereinafter Hurd].

150. Genscher on Yugoslavia, supra note 51.

151. See Douglas Stanglin, et al., Now, the birth of a notion, U.S. News & World Report, Dec. 23, 1991, at 35 (quoting Secretary Baker to say, "[m]uch as we will benefit if this revolution succeeds, we will pay if it fails").

152. Baker on Narcotics, supra note 5 (stating, "[t]here is no country here so proud or so great as to be able to rid itself of drugs without the help of other nations. . . . Together we can work more effectively than in isolation. We can accomplish more in concert that [sic] at odds with one another.").

153. See Convening of ministerial-level world meeting on drug problems approved by Assembly, OPI, Feb. 1986, available in LEXIS, INTLAW Library, UNCHRN File (stating the position of Under-Secretary-General for Political and General Assembly Affairs William B. Buffum to be that, "in the past there had been 'insufficient awareness' of the gravity of the drug abuse situation, and that perception of the size of the problem had too often been obscured by differences over who was most culpable-- producer, consumer, or transit States").

154. See, e.g., Bagley, supra note 75 (discussing how drug

traffickers have taken control over all the power structures in Colombia).

155. Drug Abuse: a social and economic threat, OPI, Feb. 1985, available in LEXIS, INTLAW Library, UNCHRN File (stating, "[i]ncreased bilateral, regional and interregional co-operation has led to record drug seizures, confiscation of traffickers' immense financial assets and destruction of many clandestine laboratories"); Fact sheet: International Narcotics Control--1990, U.S. Department of State, June 10, 1991, available in LEXIS, INTLAW Library, DSTATE File (noting expanded cooperative efforts between the U.S., Bolivia and Colombia, success in stemming increases in production of coca and opium, increased numbers of arrests of traffickers and seizures of drugs, and the problems caused by non-cooperation of Burma and Laos. The fact sheet concludes with the statement, "[i]f the international community continues the commitment and cooperation shown in 1990, it should be possible to weaken the international drug trade to a point where it would no longer pose a serious threat to the world community.); but cf. Lane, supra note 71 (noting that cocaine use in the U.S. has remained steady since 1989, rather than reduced, as the U.S. administration hoped; and that tension arises even in cooperative efforts between nations).

156. See supra note 88.

157. See supra note 91.

158. S.C. Res. 667, U.N. SCOR, 45th Sess., Resolutions for 1990, at 23, U.N. Doc. S/RES/667 (1990); S.C. Res. 674, U.N. SCOR, 45th Sess., Resolutions for 1990, at 25, U.N. Doc. S/RES/674 (1990); Cooperation Counters Iraqi Terror, supra note 86.

159. Cooperation Counters Iraqi Terror, supra note 86.

160. Id.

161. See Natsec Strategy, supra note 1, at 15 (citing that Libya and Iraq received technology and assistance from Western companies); John J. Fialka, Ruined Iraqi Chemical-Weapons Site May Yield Identities of Foreigners Who Helped to Create It, Wall St. J., Oct. 29, 1991, at A24; Sundaram, supra note 30.

162. See supra notes 103-108, and accompanying text.

163. See supra note 45 (discussing Turkey's and Iran's interests in the southern republics); Margaret Shapiro, Angry Russians Confront Yeltsin, Washington Post, Jan. 9, 1992, at A33 (noting in particular that Kazakhstan is one of the four republics with nuclear weapons).

164. Laurence McQuillan, U.S. to Apply Yugoslavia Sanctions, Bush Sees Democracy Threat, Reuters, Nov. 9, 1991, available in LEXIS, Nexis Library, REUTER File.

165. Kimmitt, supra note 113.

166. See supra notes 117-119, and accompanying text.

167. Robert Culver, Toward a Biblical View of Civil Government 28-29, 254 (1974)(describing the biblical account of the origins of government as necessary to preserve community interests against individual self-interest); see Hemleben, supra note 14, at 193 (analogizing the problem of governing individuals with that of governing states).

168. See Claude, supra note 7, at 218 (noting that a task of international organizations is to make peaceful means available "and to encourage-if not insist upon-their utilization . . ."), at 228 (noting that voluntary participation is a "major limiting factor" in pacific settlement methods); McDougal & Feliciano, supra note 13, at 121-123 (arguing the need for international control over the processes of coercion between states), at 214 (noting that the "low expectations as to the effective competence of the general organization of states to protect individual

members . . . make indispensable the permission of some self-defense." If the international community is incapable of deterring aggression, aggression is more likely to occur.), at 363 (criticizing the competence of the Security Council and International Court of Justice to prescribe norms).

169. U.N. Charter art. 24 (conferring responsibility for maintaining international security on the Council), 25 (obligating members to accept and carry out Council decisions), 33 (empowering the Council to call on parties to resolve conflicts through peaceful means), 34 (granting power to investigate conflicts which might threaten international security), 39 (granting power to decide whether a threat to international security exists and appropriate measures), 41 (granting power to employ measures other than armed force), 42 (granting power to employ armed force); see McDougal & Feliciano, supra note 13, at 143.

170. Hurd, supra note 149.

171. Jacob W. Kipp & Timothy L. Sanz, The Yugoslav People's Army, Between Civil War and Disintegration, Military Review, Dec. 1991, at 39; Greece President Fears, supra note 44; Blaine Harden, Yugoslav Defense Minister Quits Serb-Led Government,

Washington Post, Jan. 9, 1992; The Political Scene, supra note 46.

172. See supra notes 41-45.

173. Genscher on Yugoslavia, supra note 51 (calling for U.N. action to enforce international norms); Hurd, supra note 149 (calling for a U.N. peacekeeping force to stop killing and protect minorities); Laurence McQuillan, U.S. To Apply Yugoslavia Sanctions, Bush Sees Democracy Threat, Reuters, Nov. 9, 1991, available in LEXIS, Nexis Library, REUTER File (citing President Bush's call for U.N. sanctions out of concern that the racism and ethnic hatred threatened democracy there and in the Soviet Union).

174. See Claude, supra note 7, at 113.

175. See Natsec Strategy, supra note 1, at 17.

176. Fact Sheet: International Narcotics Control--1990, U.S. Department of State, June 10, 1991, available in LEXIS, INTLAW Library, DSTATE File.

177. Sundaram, supra note 30.

178. See Bagley, supra note 75; Lane, supra note 71.

179. See Sofaer, supra note 85, at 103-105 (describing Libyan sponsored terrorism in 1985 and 1986, and the U.S. military response).

180. John Goshko, Anti-Libyan Action in Airliner Bombings Eased, Washington Post, Jan. 3, 1992, at A15.

181. See Sofaer, supra note 85, at 104-110.

182. See Natsec Strategy, supra note 1, at 15 (affirming support for controls on weapons transfers and export controls); Sundaram, supra note 30 (stating, "there is a void at the intersection of between-country regulations that will continue to provide a fertile ground for many more BCCI's").

183. See Goodrich & Simons, supra note 101, at 524 (noting criticism of a post World War I arms agreement including Japan that did not provide for verification), at 539-540 (citing U.S. opposition to the Soviet proposal on atomic weapons in 1946 that would leave to each state the responsibility for development of atomic power for peaceful means. "The United States . . . insisted on a system of detailed international control, including ownership, management, supervision, leasing, licensing, and



inspection . . ."); McDougal & Feliciano, supra note 13, at 364 (regarding obtaining information).

184. Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, June 17, 1925, 26 U.S.T. 571, 94 L.N.T.S. 65; Treaty on the Non-Proliferation of Nuclear Weapons, opened for signature July 1, 1968, 21 U.S.T. 483, 729 U.N.T.S. 161; see Natsec Strategy, supra note 1, at 15 (citing Iraq's pursuit of nuclear arms and use of chemical weapons despite being party to these treaties).

185. Ahmad Chalabi, An Iraq Without Saddam Is Still Possible, Wall St. J., Nov. 13, 1991, at A16; John M. Goshko, Iraq May Get Inventory of Papers, Washington Post, Sept. 27, 1991, at A1, A22.

186. See Goodrich & Simons, supra note 101, at 524.

187. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, Apr. 10, 1972, 26 U.S.T. 583, 1015 U.N.T.S. 163 (The convention committed enforcement decisions to the Security Council, where the veto prevented any meaningful action.); Carnahan, supra note 5, at 173.

188. See Claude, supra note 7, at 218.

189. Goodrich & Hambro, supra note 19, at 93 (noting the general position held by delegates at the San Francisco conference which drafted the U.N. Charter).

190. See U.N. Charter art. 27, para. 3 (providing that "in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting. It is interesting that parties to a dispute are permitted to vote, and if a permanent member, cast a veto in cases under Chapter VII. Chapter VII provides for decisions on binding sanctions.); Claude, supra note 7, at 25 (quoting Hugo Grotius), at 217 (noting the practice in Greek city-states); Robert Culver, Toward a Biblical View of Civil Government 206 (1974)(commenting on Leviticus 19:17-18 as prohibiting private revenge in deference to civil authority); The Federalist No. 10, at 131 (James Madison)(Benjamin Fletcher Wright ed., 1961); Goodrich & Hambro, supra note 19, at 224 (quoting President Franklin Roosevelt); Hemleben, supra note 14, at 48 (quoting William Penn).

191. U.N. Charter art. 1, para. 1; see Goodrich & Hambro, supra note 19, at 93.

192. Goodrich & Hambro, supra note 19, at 94 (discussing the drafters' intent and stating immediately thereafter, "no state which has taken the law into its own hands should be allowed to stop the Council from acting." This concern about states taking the law into their own hands implies that the Council is to act as an honest broker.).

193. McDougal & Feliciano, supra note 13, at 106.

194. Id. at 123.

195. See Goodrich & Simons, supra note 101, at 367 (stating, "[a] procedure of established value in dealing with international disputes and threatening situations is to get the interested parties to take measures that will prevent the further aggravation of the situation . . ." The authors note that the League of Nations, Permanent Court of International Justice, Security Council, and International Court of Justice were established with power to perform roles as honest brokers.).

196. See U.N. Charter art. 33 (allowing the Council to call upon parties to use peaceful means to resolve disputes), art. 35 (encouraging parties to bring disputes to the Council), art. 36 (empowering the Council to recommend appropriate means to resolve

disputes), art. 37 (empowering the Council to recommend appropriate terms of settlement).

197. Claude, supra note 7, at 228.

198. Goodrich & Simons, supra note 101, at 257.

199. Id. at 514.

200. See supra notes 46-49, and accompanying text.

201. The Political Scene, supra note 46.

202. See Hurd, supra note 149 (stating, "[t]he Yugoslavs recognise [sic] that they need outside help. The involvement of the international community offers . . . an impartial negotiating framework . . .").

203. See supra notes 62-69, and accompanying text.

204. Convening of ministerial-level world meeting on drug problems approved by Assembly, OPI, Feb. 1986, available in LEXIS, INTLAW Library, UNCHR File (discussing the problem of infighting); See supra notes 76-81, and accompanying text (stressing the conflict between the United States, Bolivia, and Peru. The U.S. wants aid spent on the drug trade. Bolivia and

Peru want the aid for combatting insurgents.); Bagley, supra note 75 (regarding extradition).

205. See Bagley, supra note 75 (noting traffickers' publicity campaign to arouse Colombian nationalist sentiment against the U.S.-Colombian extradition treaty); Lane, supra note 71, at 21-22 (noting Bolivian anti-American feelings and how the U.S. is training Bolivian soldiers who will work for the traffickers within a year), at 23 (quoting an American adviser to say that the U.S. is loosing the important war for the will of the people in Bolivia).

206. See G.A. Res. 34/145, U.N. GAOR, 34th Sess., Supp. No. 46, at 244, U.N. Doc. A/RES/34/145 (1980), 19 I.L.M. 533, 535 (1980); G.A. Res. 40/61, U.N. GAOR, 40th Sess., Supp. No. 53, at 301, U.N. Doc. A/RES/40/61 (1986), 25 I.L.M. 239 (1986).

207. See Sofaer, supra note 85, at 106-110 (explaining how targeted states intervene violently), at 93-105 (arguing that self-defense applies in terrorism cases, specifically to the Libyan terrorism in 1985 and 1986).

208. See Id. at 106; John M. Goshko, Anti-Libyan Action in Airliner Bombings Eased, Washington Post, Jan. 3, 1992, at A15

(providing a current example of how extradition claims can escalate into sanctions).

209. See Bagley, supra note 75.

210. See Clarke, supra note 101 (describing U.S. policy in deciding who receives U.S. arms that highlights conflicts between U.S. interests and other states' or the international community's interests. Specifically, Mr. Clarke mentioned the U.S. goal to deter aggression against "friendly" states, argued that U.S. transfers have not contributed to aggression, even in the case of Iran, and noted that the U.S. would not support any agreement "that would prohibit such sales that are necessary for the security of our friends.").

211. See supra notes 111-133, and accompanying text.

212. See Kahler, supra note 30 (stating that the question of creating an international economic order was avoided during the Cold War period, but must be answered in the 1990's. Kahler expresses concern about protectionism, trade deficits, burden-sharing in support of economic institutions, and incorporation of many new and diverse countries as members.).

213. See Robert Culver, *Toward a Biblical View of Civil Government* 28-29 (1974) (arguing that coercive authority is necessary because individuals will seek self-interest at the expense of others).

214. Hemleben, supra note 14, at 1-3.

215. Id. at 7-11.

216. Id. at 25.

217. Id. at 45 (quoting Grotius, "it is almost necessary, that certain Congresses . . . should be held, in which the controversies which arise among some of them may be decided by others who are not interested; and in which measures may be taken to compel the parties to accept peace on equitable terms").

218. Id. at 59-61

219. Id. at 74-75.

220. Id. at 90.

221. League of Nations Covenant preamble.

222. League of Nations Covenant art. 3, para. 3, and art. 4, para. 4.

223. U.N. Charter preamble.

224. Id. art. 10 (granting the Assembly authority to discuss any matters within the Charter's scope and make recommendations), 11 (granting the Assembly authority to discuss security issues and make recommendations to members or the Security Council), 24 (assigning the Security Council responsibility for maintaining international peace and security), 41-42 (authorizing the Council to take appropriate measures to ensure peace and security); see art. 27, para. 3 (providing that interested parties may not vote on questions under Chapter VI. Note, however, that interested members may vote on questions under Chapter VII, which involve Council sanctions. This, in conjunction with the veto power, limits the extent to which the Council is an honest broker.).

225. Baker on Narcotics, supra note 5; see Narcotics Convention, supra note 70.

226. See Genscher on Yugoslavia, supra note 51 (noting the German Foreign Minister's appeal); Blaine Harden, Unarmed U.N. Officers Begin Yugoslav Mission, Washington Post, Jan. 15, 1992, at A20 (noting Yugoslav President Milosevic's support for U.N. intervention); Hurd, supra note 149 (noting his support for U.N. and E.C. intervention).



227. See supra note 88.

228. Fewer weapons and more development in all regions, OPI, Aug. 1986, available in LEXIS, INTLAW Library, UNCHR File (calling for a strengthened U.N. role in promoting disarmament and development); The 38th Floor, OPI, Aug. 1986, available in LEXIS, INTLAW Library, UNCHR File.

229. Natsec Strategy, supra note 1, at 13; Clarke, supra note 101 (stating, "[n]o international regime existed to note this [the Iraqi] build-up and address its threatening implications. No agreed standard existed to say that it was wrong. We want to fix that.").

230. The Federalist No. 15, at 160 (Alexander Hamilton)(Benjamin Fletcher Wright ed., 1961) stating,

There was a time when we were told that breaches, by the States, of the regulations of the federal authority were not to be expected; that a sense of common interest would preside over the conduct of the respective members, and would beget a full compliance with all the constitutional requisitions of the Union. This language, at the present day, would appear as wild as a great part of what we now hear from the same

quarter will be thought, when we shall have received further lessons from that best oracle of wisdom, experience. It at all times betrayed an ignorance of the true springs by which human conduct is actuated, and belied the original inducements to the establishment of civil power. Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint.

231. See Goodrich & Simons, supra note 101, at 534-541.

232. Claude, supra note 7, at 113.

233. U.N. Charter art. 24.

234. U.N. Charter art. 52 (requiring regional agencies to act consistent with the purposes and principles of the Charter), art. 54 (requiring regional agencies to inform the Security Council of activities taken to maintain international security); see Claude, supra note 7, at 114-116.

235. Hemleben, supra note 14, at 182-184.

236. League of Nations Covenant art. 16; Goodrich & Simons, supra note 101, at 490.

237. U.N. Charter art. 24, 25, 41, 42; Goodrich & Simons, supra note 101, at 491.

238. League of Nations Covenant art. 3, para. 3, and art. 4, para. 4.

239. U.N. Charter art. 9 (establishing the Assembly), art. 10-14 (granting the Assembly authority to consider international security issues, subject to Security Council authority), art. 23-24 (establishing the Security Council and granting it authority for maintaining international security).

240. League of Nations Covenant art. 16, para. 1 (stating, that in the event a member resorted to war, members were immediately to apply sanctions); Goodrich & Simons, supra note 101, at 424.

241. See Goodrich & Simons, supra note 101, at 425 (noting article 16's absolute requirement to impose sanctions and citing from League of Nations O.J. Spec. Supp. 11, at 34 (1923) to show how the members had to reinterpret it in order to make it acceptable).

242. See Claude, supra note 7, at 71-76 (stating at 76 that the major powers realized that no organization would work unless they were united, and that the U.N. "might help to promote the maintenance of their indispensable unity").

243. See McDougal & Feliciano, supra note 13, at 375 (arguing the importance of providing opportunity to develop unity, stating, "[t]he most immediately relevant tasks of scholars . . . lie, not so much in the invention and evaluation of specific new legal techniques, as in the design and execution of appropriate alternatives in communication and collaboration for promoting the necessary changes in the perspectives of the effective decision-makers of the world").

244. Claude, supra note 7, at 432.

245. Natsec Strategy, supra note 1, at 1.

246. Id. at 14.

247. Kimmitt, supra note 113.

248. Natsec Strategy, supra note 1, at V (preface by President Bush).

249. John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19.

250. See S.C. Res. 687, U.N. SCOR, 46th Sess., 2981st Mtg., U.N. Doc. S/RES/687 (1991), available in LEXIS, INTLAW Library, DSTATE File (imposing obligations on Iraq to accept elimination of its chemical, biological, and nuclear weapons capability under international supervision and forming a special commission to carry out the task under Security Council supervision); John M. Goshko, Iraq May Get Inventory of Papers, Washington Post, Sept. 27, 1991, at A1, A22 (describing the special commission's difficulties with the Iraqi government, and the Security Council's efforts to ensure the commission's success).

251. See Natsec Strategy, supra note 1, at 13 (noting U.N. distinction in "fostering democratic change in Namibia and Nicaragua"); John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19 (noting U.N. help in resolving the Cambodian civil war, and Ambassador Pickering's influence in promoting U.N. involvement there and in other places).

252. Goodrich & Hambro, supra note 19, at 100-101 (stating, "the principle of 'sovereign equality' has served to emphasize the

fact that the United Nations is an international organization to facilitate voluntary cooperation among its Members . . .").

253. See U.N. Charter art. 108 (requiring the concurrence of all permanent members for ratification of amendments to the Charter).

254. See McDougal & Feliciano, supra note 13, at 374-375.

255. See John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19 (noting Ambassador Pickering's efforts to mold the permanent members into a team, and quoting him to say, "our goal was to convince them [the Soviets] that we could reach a new era where the pressure is on everyone to find negotiated solutions").

256. McDougal & Feliciano, supra note 13, at 358-359.

257. Id. at 374 (stating, "[i]t is . . . our very strong conviction that most of these proposals [changes in legal commitments] are partial, in . . . that they place too much emphasis upon . . . legal techniques, and too little emphasis upon the conditions which must affect the acceptance of any appropriate techniques . . ."); see also Claude, supra note 7, at 418 (explaining that conditions in society must be ready for a world government prior to establishment of a world government,

and noting that U.N. agencies are establishing such conditions through their work); Goodrich & Hambro, supra note 19, at 73 (stating that international cooperation on arms control "is conditional on the existence of conditions of friendliness and mutual confidence among the great powers"); Goodrich & Simons, supra note 101, at 11 (stating, "[t]he maintenance of international peace and security . . . must be viewed in a broad perspective as requiring common action not only in dealing with threatening disputes . . . but also in creating . . . conditions favorable to peace throughout the world").

258. The Federalist No. 6, at 108 (Alexander Hamilton)(Benjamin Fletcher Wright ed., 1961)(stating, "[a] man must be far gone in Utopian speculations who can seriously doubt that, if these States [American states under the Articles of Confederation] should either be wholly disunited, or only united in partial confederacies, the subdivisions . . . would have frequent and violent contests with each other." He continues his proof with discussion of causes of hostility and historical examples of how states have pursued self-interest foolishly to their detriment.).

259. Id. at 111.

260. Id. at 113 (stating, "[n]eighboring [n]ations . . . are naturally enemies . . . unless their common weakness forces them to league . . . and their constitution prevents the differences that neighborhood occasions . . ."); See Sunstein, supra note 11, at 634 (stating,

"constitutions ought not include a right to secede. To place such a right in a founding document would increase the risks of ethnic and factional struggle; reduce the prospects for compromise and deliberation in government; raise dramatically the stakes of day-to-day political decisions; introduce irrelevant and illegitimate considerations into those decisions; create dangers of blackmail, strategic behavior, and exploitation; and, most generally, endanger the prospects for long-term self-governance.").

261. Claude, supra note 7, at 418.

262. See Id. (describing U.N. agency work as promoting the necessary values which will allow acceptance of its authority. The authority must exist to perform these functions. As it does, it generates more respect and acceptance of its functions. Professor Claude says, "[i]t is quite possible that an ounce of



international organizational service and experience is worth a pound of world governmental sermons pointing out the inadequacy of international organization.").

263. Hemleben, supra note 14, at 184.

264. Id. at 185.

265. Id. at 192.

266. Claude, supra note 7, at 45.

267. Hemleben, supra note 14, at 192.

268. Claude, supra note 7, at 66.

269. League of Nations Covenant art. 5, para. 1.

270. Claude, supra note 7, at 71-72 (stating, "[t]he United Nations was erected upon the fundamental assumption of the need for great power unity . . . The notion . . . prevailed without serious challenge throughout the war years."), at 66 (noting American abstention from the League and Russian mistrust of the League).

271. U.N. Charter art. 25, and 39-42.

272. John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19 (quoting President Bush's campaign autobiography, "[l]ike most Americans who had idealistic hopes for the United Nations when it was created in 1945, I'd undergone a sea change in attitude by the early 1970's. As 'the last best hope for peace,' the U.N. was another light that failed.").

273. See Franck, supra note 24, at 604-613; John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19.

274. See Gaddis, supra note 30.

275. Franck, supra note 24, at 615 n. 61 (citing the facts that China has cast only one solitary veto, France only once since 1946, and Britain never. Other vetoes by these states were cast alongside the United States.).

276. Claude, supra note 7, at 61-62 (regarding permanent member self-interest), at 72 (regarding the need for unity), at 147 (regarding the need to prevent rash decisions), at 155 (regarding the need to protect a minority).

277. Id. at 72; see Goodrich & Hambro, supra note 19, at 219 (noting permanent member delegates' statements that great power unity was necessary).

278. See Claude, supra note 7, at 75 (quoting Secretary of State Cordell Hull to support the need to keep the great powers in the organization as an effort to pursue peace).

279. See Id. at 76 (stating, [t]he founding fathers of the United Nations were realistic enough to accept the necessity of operating within the confines of the existing power structure and to recognize the grave dangers of future conflict among the superpowers; they were idealistic enough to make a supreme effort to promote great power unity and to capitalize upon the chance that the wartime alliance might prove cohesive enough to uphold world peace).

280. Goodrich & Hambro, supra note 19, at 219.

281. See Gaddis, supra note 30, (stating, "Marxism-Leninism could hardly have suffered a more resounding defeat if World War III had been fought to the point of total victory for the West").

282. Franck, supra note 24, at 604-613 (discussing Soviet policy since 1985 on international cooperation); Charter committee drafts declaration on UN fact-finding, OPI, June, 1991, available in LEXIS, INTLAW Library, UNCHRN File (citing a Soviet proposal for enhancing cooperation between the U.N. and regional organizations, and a stressing a need for Council authorization before regional agencies engage in enforcement actions).

283. Allison & Blackwill, supra note 38.

284. Claude, supra note 7, at 61-62.

285. Id. at 62 (noting concern about Senate consent), at 143 (quoting Secretary of State Hull to say that the veto was incorporated "primarily on account of the United States," and that the United States "would not remain there [in the Security Council] a day without retaining its veto power").

286. See generally Gaddis, supra note 30 (explaining how the world is integrated by the communications revolution, economic interdependence, collective security requirements, and the flow of ideas); Kahler, supra note 30 (describing how economies are increasingly interdependent and how economics affects security).

287. See Natsec Strategy, supra note 1, at 2; David Gergen, The New Rules of Engagement, U.S. News & World Report, Dec. 9, 1991, at 88 (stating, "Domestic and foreign affairs are not an either/or proposition: They are increasingly intertwined. We will not win at either unless we win at both.").

288. Claude, supra note 7, at 155.

289. Funabashi, supra note 8 (noting Japan's growth as a regional power, and arguing a need for Japan to assume a greater security role); Holbrooke, supra note 4 (noting increasing Japanese strength and its desire for a seat on the Security Council); New Union, supra note 65 (noting Europe's increased power through unity); Stamaty, supra note 8 (noting that increased European power will impact on NATO).

290. See e.g., Funabashi, supra note 8; Holbrooke, supra note 4 (each noting how the decreasing Soviet threat to Japan is affecting U.S.-Japanese relations).

291. See The Federalist No. 10, at 135 (James Madison)(Benjamin Fletcher Wright ed., 1961)(arguing that increased diversity of interests and citizens reduces the likelihood that majority factions will arise).

292. Goodrich & Hambro, supra note 19, at 218 (citing the Statement by the delegations of the Four Sponsoring Governments on Voting Procedure in the Security Council, UNCIO Doc. 852, Documents, XI, p. 710-4.).

293. Contra Claude, supra note 7, at 147 (quoting Philip Jessup to say, the veto is "the safety-valve that prevents the United Nations from undertaking commitments in the political field which it presently lacks the power to fulfill").

294. See Goodrich & Simons, supra note 101, at 86 (noting that in cases where it was clear that no action would result, parties used the Council as a "propaganda forum").

295. McDougal & Feliciano, supra note 13, at 362.

296. Id. at 95.

297. See Goodrich & Hambro, supra note 19, at 297-299; McDougal & Feliciano, supra note 13, at 48-49, 235.

298. Claude, supra note 7, at 116 (noting that regional agencies may base security arrangements on Article 51 of the Charter, which provides only for subsequent Council action. The permanent member veto allows the regional agency to block subsequent

Council action. As a result, "regional agencies have been able to acquire plausible legal justification and, more importantly, strenuous political justification, for being what they are intended by their creators to be: independently operating coalitions, unhampered by external controls.").

299. Goodrich & Hambro, supra note 19, at 57.

300. Id.

301. Claude, supra note 7, at 149.

302. Dinstein, supra note 6, at 268-269.

303. See McDougal, supra note 13, at 213-214 (stating, the fundamental community policy at stake is the common interest of all the world's peoples in securing a minimum of public order. This most basic policy . . . permits the unilateral use of force . . . In the contemporary world, low expectations as to the effective competence of the general organization of states to protect individual members . . . make indispensable the permission of some self-defense.).

304. See Dinstein, supra note 6, at 192 (stating,

[t]he excuse of self-defense has often been used by aggressors . . . Brutal armed attacks have taken place while the attacking State sanctimoniously assured world public opinion that it was only responding with counterforce . . . If every State were the final arbiter of the legality of its own acts . . . the international legal endeavour to hold force in check would have been an exercise in futility.);

Goodrich & Hambro, supra note 19, at 301 (stating,

By the terms of Article 2(4), Members undertake to "refrain . . . from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." Does this mean that if the United Nations, in the opinion of one or more Members, fails to achieve the Purposes enumerated in Article 1, that Member or those Members may by individual or collective action under Article 51 involving the use of force, seek to implement these purposes? That would seem to open a rather large door for unilateral action with no adequate assurance that the alleged right would not be seriously abused.).



305. Goodrich & Hambro, supra note 19, at 300.
306. McDougal & Feliciano, supra note 13, at 70.
307. Proposed UN Force for Lebanon rejected, OPI, 1984, available in LEXIS, INTLAW Library, UNCHR File.
308. United States vetoes Security Council proposal, OPI, 1984, available in LEXIS, INTLAW Library, UNCHR File.
309. Dinstein, supra note 6, at 263.
310. Ethan Schwartz, U.N. Assembly Blasts Invasion of Panama, Washington Post, Dec. 30, 1989, at A17 (reporting an Assembly resolution condemning the invasion that passed by a 75 to 20 margin, as well as the U.S. veto of the Council resolution).
311. Debbie M. Price & Thomas W. Lippman, President Apologizes For Troops' Blunder, Washington Post, Dec. 31, 1989, at A1, A17; U.S. Vetoes U.N. Resolution, New York Times, Jan. 18, 1990, at A16.
312. See e.g., Security Council considers situation in southern Mediterranean, OPI, 1986, available in LEXIS, INTLAW Library, UNCHR File ("Libya also said that because of the United States veto [over U.S. freedom of navigation exercises in the Gulf of

Sidra], the Security Council was no longer able to assume its responsibilities or to play its role in maintaining international peace and security." ).

313. John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19.

314. See Sunstein, supra note 11, at 648-649 (explaining how the possibility of secession undermines effective union. He recommends that no right of secession exist, because this will help the union become effective. The same argument applies with regard to the veto. ).

315. See The Federalist No. 10, at 135 (James Madison)(Benjamin Fletcher Wright ed., 1961)(arguing that extending the sphere of interests reduces the chances of factions in the organization. This tends to protect against oppression by a majority with distinct interests. During the Cold War, there were two distinct interests. Today, there are more. Thus, the permanent members should feel less threatened by a majority of permanent members on the Council than during the Cold War.); see also Franck, supra note 24, at 615 n.61 (noting that the veto has fallen into disuse among permanent members other than the U.S. and Soviet Union).

316. See Claude, supra note 7, at 418-423 (criticizing world government as an option that cannot be evaluated until tried. Although this raises the logical possibility that eliminating the veto will not work, such should not be the case. Claude admits that the authority affects the community. Increased Council effectiveness should generate increased compliance with community norms.).

317. John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19.

318. Id.

319. See supra notes 158-160, and accompanying text (on cooperation to prevent terrorism), 247 (on burden sharing), and 248-250, and accompanying text (on efforts to defeat aggression and prevent future aggression).

320. See Natsec Strategy, supra note 1, at V (where President Bush writes, "[i]n the Gulf, we saw the United Nations playing the role dreamed of by its founders . . ."); Gaddis, supra note 30 (stating,

Woodrow Wilson's vision of collective international action to deter aggression failed to materialize after

1919 because of European appeasement and American isolationism, and after 1945 because of the great power rivalries that produced the Cold War. None of these difficulties exist today. The world has a third chance to give Wilson's plan the fair test it has never received, and fate has even provided an appropriate occasion: successful U.N. action to restore Kuwaiti independence sets a powerful example that could advance us some distance toward bringing the conduct of international relations within the framework of international law that has long existed alongside it, but too often apart from it.).

321. John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19; see Natsec Strategy, supra note 1, at 13.

322. The Federalist No. 2, at 94 (John Jay)(Benjamin Fletcher Wright ed., 1961)(noting the common cultural values of the colonial people, a characteristic which does not apply in the international community), No. 3, at 97 (John Jay) (arguing that commitment to the collective interest helped protect each member from outside threats. Commitment to the international community

does not enjoy this advantage, absent an attack from outer space.), 5, at 105 (John Jay) (arguing that unity will promote liberty, civil rights, and economic progress), No. 6, at 108-113 (Alexander Hamilton) (arguing that unity will prevent internal violence), No. 15, at 160-162 (Alexander Hamilton) (arguing that unity will help maintain order); see supra notes 135, and accompanying text (explaining that similar benefits come from unity in the international community), 248-251, and accompanying text (explaining how the Security Council has been effective in recent years by foregoing the veto).

323. See Claude, supra note 7, at 428 (asking rhetorically, "how can any man presume to say that world government would produce beneficent effects upon world society comparable to the effects produced upon American society by its central government?" Because the commitment to the Security Council without a veto would be similar to a commitment to a world government, the analogy seems to apply.).

324. See Stamaty, supra note 8.

325. See New Union, supra note 65 (quoting President Mitterand to say that "Europe will be the top power by the next century"); Stamaty, supra note 8 (explaining how unity will make Europe the

world's largest market, and lead to a security structure independent of NATO).

326. See Funabashi, supra note 8 (reporting increased Japanese interest in regional security, stemming from European Community integration and North American trade agreements. Competition from other regions is stimulating a competitive response from the Japanese.); Holbrooke, supra note 4 (noting that the U.S. and Japan can no longer relate as unequal partners, that Japan's economy is growing stronger in comparison to the U.S.'s, that Japan exported more to East Asia than to the U.S. last year; and concluding that "Japan's relative importance to the United States may increase as Washington's relative importance to Tokyo decreases").

327. Franck, supra note 24, at 615; Holbrooke, supra note 4; Trevor Rowe, Bush Said to Sign On for Proposed Security Council Summit, Washington Post, Jan. 8, 1992, at A16.

328. Natsec Strategy, supra note 1, at 6 (stating, [a]s these countries assume a greater political role, the health of American ties with them - political, military and economic - will remain crucial to regional and even global stability. . . . But we frequently find

ourselves competitors . . . These frictions must be managed . . . In this sense, ongoing trade negotiations now share some of the strategic importance we have traditionally attached to arms talks with the Soviet Union.);

see Claude, supra note 7, at 76.

329. Nicholas Eberstadt, Population Change and National Security, Council on Foreign Relations, Inc., Summer 1991, available in LEXIS, INTLAW Library, UNCHRN File [hereinafter Eberstadt].

330. Id.

331. Id.

332. Id.

333. Claude, supra note 7, at 75 (stating, that Secretary Cordell Hull "was keenly aware of the fact that Soviet cooperation could not be assumed, but would have to be carefully and patiently sought after and cultivated." He "clung to the determination to exploit every possibility of maintaining unity for the future . . .").

334. Goodrich & Simons, supra note 101, at 535-537.

335. Id. at 527-528.

336. See U.N. Charter art. 108 (requiring a two-thirds vote in the General Assembly and ratification of two-thirds of the members, including all the permanent members, before amendments take effect); Claude, supra note 7, at 65-66 (explaining Secretary Hull's concern about the effects of war victors imposing a peace upon the community. The United States should be concerned about imposing peace as a Cold War victor. Therefore, working through the United Nations and through consent is necessary to generate community acceptance of U.S. positions.).

337. See Hemleben, supra note 14, at 182-184 (noting that acceptable community conditions must exist); McDougal & Feliciano, supra note 13, at 130-131 (noting that some legitimate authority is required to prescribe and apply community policy).

338. See supra notes 11-24, and accompanying text; Claude, supra note 7, at 39 (stating, "[m]en and nations want the benefits of international organization, but they also want to retain the privileges of sovereignty . . . The development of international organization has been plagued by the failure of human beings to



think logically . . . about the inexorable relationship . . . between the having and the eating of the cake."); Hemleben, supra note 14, at 191 (noting that nationalism prevented states from benefitting from arbitration.); McDougal & Feliciano, supra note 13, at xx (recording in Prof. Lasswell's introduction that seeking to achieve minimum world order involves risks to individual state interests).

339. McDougal & Feliciano, supra note 13, at 375; see Natsec Strategy, supra note 1, at 3, 13 (citing a U.S. commitment to strengthen the U.N., making it more effective in maintaining peace), at 13 (citing U.S. desires to fund U.N. development programs); John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19 (noting that Presidents Bush and Gorbachev suggested that the U.N. become the basis for the new world order); Baker on Narcotics, supra note 5 (calling on nations to make use of the U.N. in drug enforcement efforts).

340. See John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19 (noting the Council's increased respect as a result of its work in the

Persian Gulf war, as well as its work in El Salvador and Cambodia).

341. See Goodrich & Simons, supra note 101, at 202.

342. Claude, supra note 7, at 442 (speaking about the American federal government. This applies equally to the international arena. Claude notes at 418 that "an ounce of international organizational service and experience is worth a pound of world governmental sermons pointing out the inadequacies of international organization."); see also Goodrich & Hambro, supra note 19, at 96 (noting the need for international organizations to improve human conditions).

343. See Claude, supra note 7, at 75 (quoting Secretary of State Cordell Hull to say that the need to harmonize interests is "the solid foundation upon which all future policy and international organization must be built"), at 76 (quoting Senator Vandenberg to say that the U.N. would minimize friction, stabilize friendships, and channel orderly contacts).

344. See Claude, supra note 7, at 28 (regarding community awareness of problems and interests); The Federalist No. 1, at 92 (Alexander Hamilton)(Benjamin Fletcher Wright ed.,

1961)(indicating Publius' purpose to educate the citizens about the merits of the Constitution); Goodrich & Simons, supra note 101, at 616 (regarding developing community values); Hemleben, supra note 14, at 78 (noting that Rousseau wrote to convince leaders that the costs of war outweighed the benefits); McDougal & Feliciano, supra note 13, at 289 n.58 (regarding molding community leaders' views on the use of force).

345. See Gaddis, supra note 30 (stating, "the Cold War has already created in the practice of the great powers mechanisms for deterring aggression that have worked remarkably well: these did not exist prior to 1945. There could be real advantages now in codifying and extending this behavior as widely as possible."); see also The Federalist No. 1, at 92 (Alexander Hamilton)(Benjamin Fletcher Wright ed., 1961)(noting Publius's purpose to generate support for the adoption of the Constitution).

346. See The Federalist No. 2, at 95 (John Jay)(Benjamin Fletcher Wright ed., 1961); Goodrich & Hambro, supra note 19, at 17.

347. Claude, supra note 7, at 149 (suggesting that the veto's use may be based upon a perception of majoritarian tyranny), at

155 (citing Soviet use of the veto as a necessary reaction to exploitation by a majority of western states).

348. Franck, supra note 24, at 615.

349. The Federalist No. 51, at 356 (James Madison)(Benjamin Fletcher Wright ed., 1961).

350. John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19; John M. Goshko, Anti-Libyan Action in Airliner Bombings Eased, Washington Post, Jan. 3, 1992, at A15.

351. See U.N. Charter art. 23, para. 1 (regarding election by the General Assembly and delegation of security responsibility), art. 24, (regarding delegation of security responsibility and reports to the Assembly); See also art. 10, 62, 87 (granting other areas of responsibility to other U.N. organs).

352. See Sunstein, supra note 11, at 637 (suggesting that civil rights protection may help create acceptable conditions).

353. Claude, supra note 7, at 119.

354. U.N. Charter art. 24, para. 1.

355. See Claude, supra note 7, at 251.

356. Id. at 120 (noting that unanimity requirements lead to paralysis and anarchy, which is the opposite of unity), at 124 (noting that one vote for each state does not properly express the will of the majority); The Federalist No. 22, at 193 (Alexander Hamilton)(Benjamin Fletcher Wright ed., 1961)(arguing that, in respect to the colonies, a majority of states was not necessarily a majority of the country); McDougal & Feliciano, supra note 13, at 362 (noting that special majorities enable minorities to determine community policies).

357. Claude, supra note 7, at 125.

358. Id. at 140.

359. See supra notes 307-308, and accompanying text.

360. See John M. Goshko, A World of Difference at the United Nations, Washington Post, Nov. 12, 1991, at A19.

361. See supra notes 167-168, and accompanying text.

362. See McDougal & Feliciano, supra note 13, at 374 (noting that legal techniques can affect community behavior).

363. See Claude, supra note 7, at 120 (noting that unanimity leads to paralysis); The Federalist No. 51, at 356 (James Madison)(Benjamin Fletcher Wright ed., 1961)(arguing that a government must be able to control the governed); Goodrich & Hambro, supra note 19, at 219 (criticizing the veto as paralyzing the Security Council).

364. Goodrich & Hambro, supra note 19, at 29 (This is one reason the veto was necessary in 1945.).

365. See supra notes 190-192, and accompanying text.

366. The Federalist No. 22, at 193-194 (Alexander Hamilton) (Benjamin Fletcher Wright ed., 1961); Goodrich & Hambro, supra note 19, at 199.

367. See Claude, supra note 7, at 63 (stating, "if great nations are inclined to abuse their strength by behaving dictatorially, small ones are often tempted to abuse their weakness by behaving irresponsibly").

368. See supra notes 307-308, and accompanying text.

369. See Goodrich & Hambro, supra note 19, at 224 (noting Soviet

use of the veto as a means to prevent tyrannical treatment by the majority of western states on the Council).

370. See The Federalist No. 51, at 356 (James Madison)(Benjamin Fletcher Wright ed., 1961)(stating, "the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself").

371. See Claude, supra note 7, at 125 (noting that majoritarianism has moral value as it relates to minority rule, and has the practical value of allowing institutions to function).