INTERACTION COUNCIL

Established in 1983

26th Annual Meeting

25-27 June 2008, Rönneberga, Sweden

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   - Paper by Professor Thomas M. Franck
   - Paper by Dr. Hans Corell

5. Managing International Financial Markets
   - Chairman's Report
   - Discussion paper by Ambassador Mr. Jörg Asmussen
   - Article by Honorary Chairman Helmut Schmidt

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   - Programme
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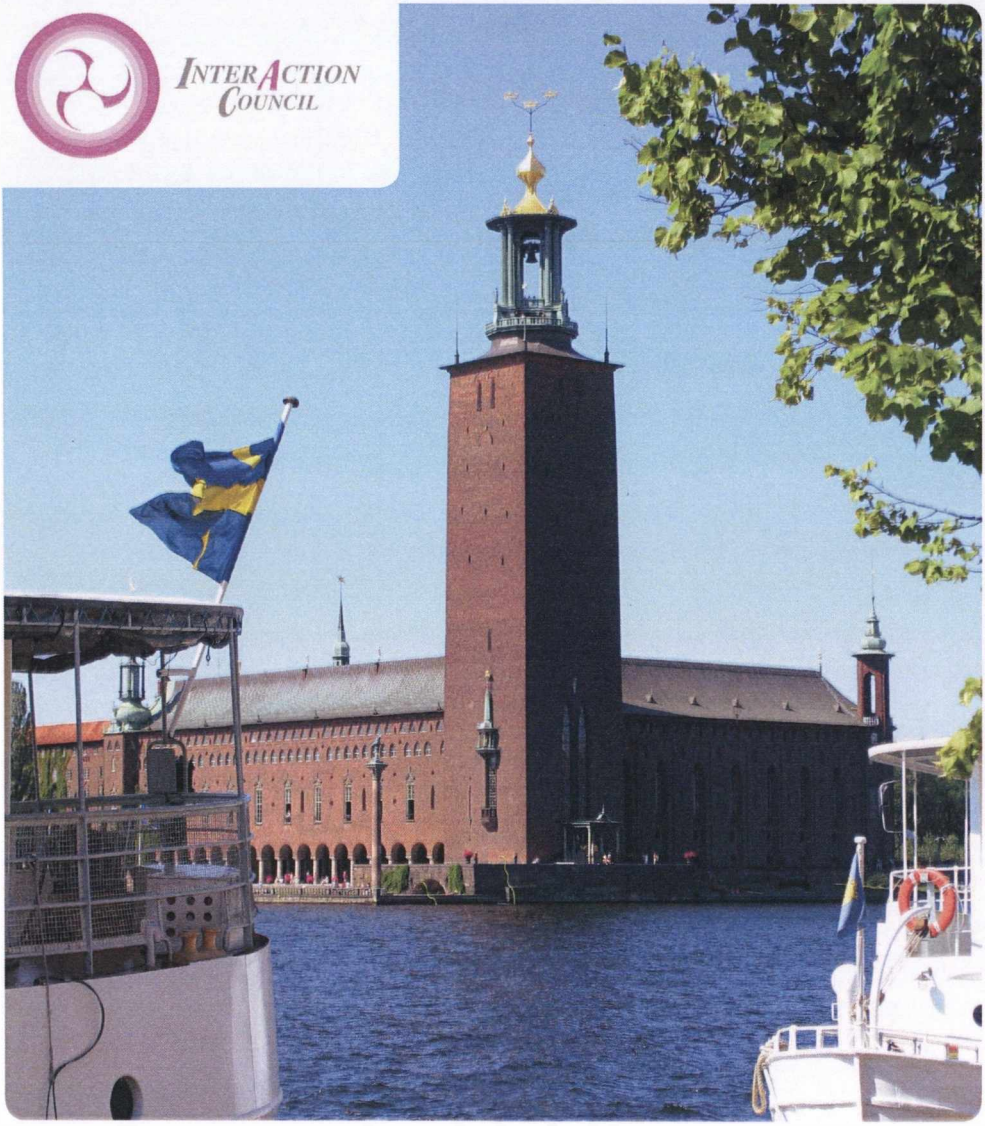
*The InterAction Council profoundly appreciates the support given by the Governments of **Australia, Germany, Japan, Korea, Saudi Arabia and Sweden.***

INTERACTION COUNCIL



OPENING CEREMONY

AT THE STOCKHOLM CITY HALL

25 June 2008

Wednesday 25 June

10.45 - 12.30
Opening Ceremony at the Council Chamber, City Hall, Hantverkargatan 1, Stockholm
Chaired by **H.E. Mr. Ingvar Carlsson**, Co-Chairman

Music by Victoria Power, piano, and Andrej Nikolaev, violin, "The Prayer" by Victoria Power

- Welcome by **H.E. Mr. Ingvar Carlsson**, Co-Chairman
- Introduction of the Council-, associate members and special guests by **H.E. Mr. Malcolm Fraser**, Honorary Chairman
- Greeting by **H.E. Mr. Fredrik Reinfeldt**, Prime Minister of Sweden

Musical interlude: Victoria Power and Andrej Nikolaev "Polonaise Brillante" by H. Wieniawski

- Keynote speech on the "Present State of the World" by **H.E. Mr. Hans Blix**, former Chairman of the UN Monitoring, Verification and Inspection Commission in Iraq
- InterAction Council's appreciation by **H.E. Mr. Jean Chrétien**, Co-Chairman

12.30
Brief guided tour of the City Hall

13.00 - 14.15
Buffet luncheon hosted by **H.E. Mr. Bo Bladholm**, Lord Mayor of Stockholm,
Prince's Gallery, City Hall

We appreciate the support given by:

Government of Japan
Government of Korea
Government of Sweden
Government of Germany
Government of Australia
Government of Saudi Arabia

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INTERACTION COUNCIL
Established in 1983

Schedule

26th Annual Plenary Session

25-27 June, 2008, Rönneberga, Stockholm, Sweden

Chairman: H. E. Mr. Ingvar Carlsson

23-24 June 08	*Arrival of participants*
pm	**Executive Committee meeting** *Eken Conference Room (Eken building)*
19.00	**Welcome reception and dinner** hosted by **H.E. Mr. Ingvar Carlsson**, Chairman and **H.E.Mr.Mori**, former Prime Minister of Japan, *Rönneberga*
25 June (Wednesday)	
9.40	*Departure to the City Hall, Stockholm*
10.45	**Opening ceremony** at the Council Chamber City Hall, Hantverkaregatan 1, Stockholm Chaired by **H.E. Mr. Ingvar Carlsson,** Chairman Greetings by **H.E. Mr. Bo Bladholm**, Lord Mayor of Stockholm *Music by Victoria Power, piano, and Andrej Nikolaev, violin* *"The Prayer" - Victoria Power* - Welcome by **H.E. Mr. Ingvar Carlsson,** Chairman - Introduction of the Council-, associate members and special guests by **H.E. Mr. Malcolm Fraser,** Honorary Chairman - Greeting by **H.E. Mr. Fredrik Reinfeldt** Prime Minister of Sweden *Musical interlude: Victoria Power and Andrej Nikolaev* *"Polonaise Brillante" by H. Wieniawski* - Keynote speech on the "Present State of the World" by **H.E. Mr. Hans Blix,** former Chairman of the UN Monitoring, Verification and Inspection Commission in Iraq - InterAction Council's appreciation by **H.E. Mr. Jean Chrétien,** Co-Chairman
12.30	Brief guided tour of the City Hall
13.00-14.15	Luncheon hosted by **H.E. Mr. Bo Bladholm,** Lord Mayor of Stockholm, Prince's Gallery, City Hall
14.15	*Departure to Rönneberga*
14.45	**Session I: Present state of the World** *(members and special guests only)*

25 June (cont'd.)

19.00	*Departure to the Ministry for Foreign Affairs*
20.00	Dinner hosted by H.E. Mr. Carl Bildt, Minister for Foreign Affairs
20.00	Ministry for Foreign Affairs, Sweden *Hereditary Prince's Palace, Gustav Adolfs Torg 1* *(by invitation only)*
22.00	*Return to Rönneberga*

26 June (Thursday)

9.00-12.00	**Session II: Restoring International Law: Legal, Political and Human Dimensions**
12.00-13.45	*Luncheon at Rönneberga*
14.00-18.00	**Session III: Managing International Financial Markets**
18.30	Cruise and dinner hosted by Honorary Chairman **H.E. Mr. Helmut Schmidt**

27 June (Friday)

9.00-11.00	**Session IV: Summary and adoption of the Communique**
9:00-16:30.	**Young Leadership Forum** *(concurrently, but separately)*
pm	**Executive Committee meeting** *Eken Conference Room (Eken building)*
	Departure of participants

Accommodation and meetings' venue
Rönneberga Kurs och Konferensanläggning
Elfvik, 181 90 Lidingö, Stockholm County, Sweden
Tel: +46-(0)8-446 78 00
Fax: +46-(0)8-446 79 37

Opening Ceremony
City Hall
S – 105 35 Stockholm, Sweden

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InterAction Council

List of Participants

26th Annual Plenary Meeting

25-27 June 2008, Rönneberga, Sweden

IAC Members

1. H. E. Mr. Helmut **Schmidt**, Honorary Chairman (Former Chancellor of Germany)
2. H. E. Mr. Malcolm **Fraser**, Honorary Chairman (Former Prime Minister of Australia)
3. H. E. Mr. Ingvar **Carlsson**, Co-chairman (Former Prime Minister of Sweden)
4. H. E. Mr. Jean **Chrétien**, Co-chairman (Former Prime Minister of Canada)
5. H. E. Mr. Andreas **van Agt** (Former Prime Minister of the Netherlands)
6. H. E. Mr. Esko **Aho** (Former Prime Minister of the Republic of Finland)
7. H. E. Mrs. Gro Harlem **Brundtland** (Former Prime Minister of Norway)
8. H. E. Mrs. Vigdís **Finnbogadóttir** (Former President of the Republic of Iceland)
9. H. E. Mr. Bacharuddin Jusuf **Habibie** (Former President of the Republic of Indonesia)
10. H. E. Mr. **Lee** Hong-Koo (Former Prime Minister of Korea)
11. H. E. Mr. AbdelSalam **Majali** (Former Prime Minister of Jordan)
12. H. E. Mr. Benjamin William **Mkapa** (Former President of Tanzania)
13. H. E. Mr. Yoshiro **Mori** (Former Prime Minister of Japan)
14. H. E. Mr. Olusegun **Obasanjo** (Former President of the Nigeria)
15. H. E. Mr. Andrés **Pastrana** (Former President of Colombia)
16. H. E. Mr. Percival N.J. **Patterson** (Former Prime Minister of the Republic of Jamaica)
17. H. E. Mr. Jerry John **Rawlings** (Former Head of State, the Republic of Ghana)
18. H. E. Mr. José **Sarney** (Former President of Brazil)
19. H. E. Mr. Constantinos Georgios **Simitis** (Former Prime Minister of Greece)
20. H.E. Mr. **Tung** Chee Hwa (Former Chief Executive of Hong Kong)
21. H. E. Mr. George **Vassiliou** (Former President of Cyprus)
22. H. E. Mr. Franz **Vranitzky** (Former Chancellor of Austria)
23. H. E. Mr. Richard von **Weizsäcker** (Former President of Germany)
24. H. E. Mr. Ernesto **Zedillo** Ponce de Léon (Former President of Mexico)

Associate Members

25. Dr. Abdul Rahman Hamad **Al-Saeed**, Advisor, The Royal Court (Saudi Arabia, Representing Mr. Abdul Aziz Z. Al-Quraishi)
26. Prof. Thomas **Axworthy**, Chair of the Centre for the Study of Democracy, Queen's University (Canada)
27. Baroness **Jay**, Chairperson of the Overseas Development Institute, London (U. K.)
28. Prof. Hans **Küng**, Professor Emeritus, Tübingen University (Switzerland)
29. Dr. **Lee** Seung-yun, (Former Deputy-Prime Minister of Korea)
30. Mr. Seiken **Sugiura** (Former Justice Minister of Japan)

Special Guests

31. Mrs. Caroline **Anstey**, Chief of Staff, Office of the President, World Bank
32. Mr. James **Blanchard**, (Former United States Ambassador to Canada, Former Governor of Michigan)
33. H. E. Mr. Hans **Blix** (Former Chairman of the UN Monitoring, Verification and Inspection Commission for Iraq)
34. Dr. Olav **Brundtland**, Scholar in international relations (Norway)
35. Dr. Hans **Corell**, (Former Legal Counsel to the UN and UN Under-Secretary for Legal Affairs) (Sweden)
36. Mr. Nagao **Hyodo**, (Former Japanese Ambassador to Belgium)
37. Mr. Julius **Liljeström**, (Sweden)
38. Prof. Timothy L.H. **McCormack**, Professor of International Humanitarian Law, University of Melbourne Law School (Australia)
39. Dr. Ahmad S. **Moussalli**, Professor, American University of Beirut (Lebanon)
40. Mr. **Qian** Qichen, (Former Deputy Premier of the State Council) (China)
41. Dr. Sergey **Rogov**, Director of Institute for USA and Canada of the Russian Academy of Sciences
42. Prof. Teizo **Taya**, Rikkyo University (Japan)
43. Prof. **Tu** Weiming, Harvard University (China)
44. H. E. Mr. Ola **Ullsten** (Former Prime Minister of Sweden, Former member of IAC)

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INTERACTION COUNCIL

26th Annual Plenary Meeting (C.V.)

25-27 June 2008, Stockholm, Sweden

MEMBERS

Helmut Schmidt, Honorary Chairman
Chancellor of the Federal Republic of Germany 1974-82
Born 1918. Manager, Transport Administration of State of Hamburg 1949-53; Member, Bundestag 1953-62 and 1965-87; Chairman, Social Democratic Party (SPD) Faction in Bundestag 1967-69, Vice-Chairman, SPD 1968-84; Senator (Minister) for Domestic Affairs in Hamburg 1961-65; Minister of Defence 1969-72; Minister for Economics and Finance 1972; Minister of Finance 1972-74; Chairman, InterAction Council 1985-95; Publisher, Die Zeit, Hamburg, 1983-.

Malcolm Fraser, Honorary Chairman
Prime Minister of the Commonwealth of Australia 1975-83
Born 1930. Member of Parliament 1955-83; Member, Joint Parliamentary Committee of Australia National University 1964-66; Minister for the Army 1966-68; Minister for Education and Science 1968-69; Minister for Defence 1969-71; Minister for Education and Science 1971-72; Leader of the Opposition 1975; Awards: B'nai B'rith International President's Gold Medal for Humanitarian Services 1980; Australian Human Rights Medal 2000; Grand Cordon of the Order of the Rising Sun, Japan 2006. Chairman, United Nations Hearings on the Role of Transnational Corporations in South Africa 1985; Co-Chairman, Commonwealth Group of Eminent Persons on South Africa 1985-86; Chairman, U.N. Committee on African Commodity Problems 1989-90. Consultancy, Nomura Research Institute 1985-96; Board, Investment Co. of America 1987-93; ANZ International Board of Advice 1987-93; President, CARE International 1990-95, Vice-President 1995-99; Chairman, CARE Australia 1987-2001; Published book: "Common Ground - issues that should bind and not divide us" 2002.

Ingvar Carlsson, Co-Chairman
Prime Minister of the Kingdom of Sweden 1986-91, 1994-96
Born 1934. Special Assistant in the Cabinet Office to the Prime Minister, Tage Erlander 1958-60; Member of Parliament 1964-96; Under-Secretary of State at the Cabinet Office 1967-69; Minister for Education and Cultural Affairs 1969-73; Minister for Housing and Physical Planning 1973-76; Member of the Executive Committee of the Social Democratic National Board 1975-96; Deputy Prime Minister with special responsibility for political planning and coordination of research policy 1982-86; Minister of Environment 1985-86; Prime Minister of Sweden 1986-91; Chairman of the Social Democratic Party 1986-96; Prime Minister of Sweden 1994-96; Chairman of the Foundation for Strategic Research 1997-2004; Chairman of Olof Palme International Center 1999-2004; Chairman of Anna Lindh Memorial Fund 2003-06.

Jean Chrétien, Co-Chairman
Prime Minister of Canada 1993-2003
Born 1934. LL.L. Laval University 1958; Lawyer with Chrétien, Landry, Deschênes, Trudel and Normand 1958-63; Member of Parliament 1963-86, 1990-2003; Parliamentary Secretary to Prime Minister Pearson 1965; Parliamentary Secretary to Minister of Finance 1965-67; Minister Without Portfolio 1967-68; Minister of National Revenue 1968; Minister of Indian Affairs and Northern Development 1968-74; President of Treasury Board 1974-76; Minister of Industry, Trade and Commerce 1976-77; Minister of Finance 1977-79; Minister of Justice and Attorney General of Canada, Minister of State for Social Development, Minister responsible for constitutional negotiations 1980-82; Minister of Energy, Mines and Resources 1982-84; Deputy Prime Minister and Secretary of State for External Affairs 1984; Counsel with Lang, Mitchener, Lawrence and Shaw, and Senior Advisor with Gordon Capital Corporation, Montreal 1986-90; Senior Counsel, Heenan Blaikie 2003-.

Andreas van Agt
Prime Minister of the Kingdom of the Netherlands 1977-82
Born 1931. Barrister 1956-58; legal counsellor for the Ministry of Agriculture 1958-63; legal counsellor for the Minister of Justice 1963-68; Professor of criminal law, Nijmegen University 1968-71; Minister of Justice 1971-73; Deputy Prime Minister and Minister of Justice 1973-77; member of the national parliament, leader of the Christian Democratic Appeal (CDA) 1977; Queen's Commissioner (Governor) of the province of North Brabant 1983-87; EC Ambassador to Japan 1987-90; EC Ambassador to the United States 1990-95; visiting professor at Ritsumeikan University, Japan 1995-96; Chair Professor of International Governance at the United Nations University in Tokyo 1999; visiting professor at Kwansei Gakuin University in Nishinomiya in 2002, 2004 and 2007.

Esko Aho
Prime Minister of the Republic of Finland 1991-95
Born 1954. Master of Social Sciences (Pol. Sc.); Chairman of the Youth Organization of the Centre Party 1974-80; Political Secretary to the Minister for Foreign Affairs 1979-80; Member of Parliament since 1983; Presidential Elector 1978, 1982, 1988; Leader of the Centre Party of Finland since 1990; Speaker of Parliament 1991. President, Sitra 2004-.

Gro Haroem Brundtland
Prime Minister of Norway 1981, 1986–89, 1990–96
Former Director General, World Health Organization
Born 1939. Medical Doctor University of Oslo 1963; Master of Public Health, Harvard University 1965; Background in Public Health and research child health and development; Active within the labor movement and labor party since youth; Deputy head of Oslo School Health Services 1970-74; Minister of Environment 1974-79; Member of Parliament 1977-96; Deputy leader of the Labor party 1975-81; Leader of the Labor party 1981-92; Prime Minister 1981; Leader of the opposition 1981-86; Leader of The World Commission on Environment and Development 1984-87; Director General, WHO 1998-2003; Member, Board United Nations Foundation 2003-; Elders 2007-; Special Envoy on Climate Change for UN Secretary General 2007-.

Vigdis Finnbogadóttir
President of Iceland 1980-96
Born 1930. After graduating from the Reykjavik College in 1949, she studied extensively at the University of Grenoble and Sorbonne in France, the University of Uppsala in Sweden and the University of Iceland; taught at Reykjavik College and at the University of Iceland; established the first training courses for tourist guides and the first theater group in Iceland; member of the Advisory Committee on Cultural Affairs in Nordic countries 1976-80; Chair of the Council of Women World Leaders at the John F. Kennedy School of Government at Harvard University 1996-.

Bacharuddin Jusuf Habibie
President of the Republic of Indonesia 1998-99
Born 1936. Advisor to the Indonesian President in Advanced Technology 1974-78; State Minister for Research and Technology 1978-98; Chairman of Agency for Technology Studies and Application (BPP) 1978-98; Member of the People's Consultative Assembly (MPR-RI) 1982-98; Vice President, Republic of Indonesia, 1998; Chairman and then Honorary Chairman of Indonesian Muslim Intellectuals Association (ICMI) 1999-; President of Islamic International Forum for Science, Technology and Human Resources Development (IIFTTHAR) 1997-; Member Board of Trustee of The Moslem World League (Rabitah Alam Islami) 2001-.

Lee Hong-Koo
Prime Minister of South Korea 1994-95
Educated at Seoul National University, Emory University and Yale University where he received a PhD in political science; Faculty of Seoul National University 1968-88; President of the Korean Political Science Association; Fellow at Woodrow Wilson International Center 1973 and Harvard Law School 1974; Served twice as the deputy prime minister for unification dealing with the relation between the divided two Korean states; Member of the Korean National Assembly and the chairman of then ruling New Korea Party; His publication includes five volume collected works; Korean ambassador to the U.K. 1991-93 and to the U.S.A. 1998-2000. Member of the Commission on Global Governance 1991-94, proposed restructuring of the United Nations; Chairman of the Board, The Seoul Forum for International Affairs, the East Asia Institute, and an advisor to the *JoongAng Ilbo* (leading daily newspaper); Sits on the Board of the Asia Foundation, the Asia Society, and the Salzburg Seminar, and serves as a member of the Club of Madrid and the Global Leadership for Climate Action.

AbdelSalam Majali
Prime Minister of the Hashemite Kingdom of Jordan 1993-95 and 1997-98
Born 1925. PhD Medical College, Syrian University 1949; Diploma of Laryngology and Otology, Royal College of Surgeons and Physicians, London 1953; Fellowship, American College of Surgeons 1960; Fellow, Third World Academy of Sciences 1985; Fellowship, Royal College of Physicians, London 1986; Fellow, Islamic-World Academy of Sciences 1986; Director General and E.N.T. Consultant, the Royal Medical Services, Jordan Armed Forces 1960-69; Minister of Health 1969-71; Minister of State for Prime Ministry Affairs 1970-71; President, University of Jordan 1971-76; Professor, College of Medicine, University of Jordan 1973-; Minister of Education and Minister of

State for Prime Ministry Affairs 1976-79; Chairman, University Council, United Nations University, Tokyo 1977-82; President, University of Jordan 1980-89; Member, Executive Board of UNESCO 1985-90; Advisor of H.M. King Hussein 1989; Director-General, Jordan Health Institute 1990-91; President, World Affairs Council (Jordan); President, Islamic World Academy of Sciences 1999-; Member of the Jordan Senate; Chairman, Jordan Senate Foreign Relations Committee.

Benjamin William Mkapa
President of the United Republic of Tanzania 1995-2006
Born 1938. BA (Honours) in English, Makerere University College, Uganda 1962; Special course for Diplomats from Newly Independent States, School of International Affairs, Columbia University 1963; Local administration where he was appointed District Officer, Dodoma 1962; Recruited for Exterior Services 1962; In 1966 he embarked upon a long career in journalism. During the 1960s and 70s he served as Managing Editor of Tanzania's leading newspapers, *The Nationalist*, *Uhuru*, *The Daily News*, and *The Sunday News*. Appointed Press Secretary for Founding President of Tanzania, Mwalimu Julius Kambarage Nyerere 1974; Founding Editor, Tanzania News Agency (SHIHATA) 1976; High Commissioner in Nigeria 1976; Minister for Foreign Affairs 1977-80 and 1984-90; Minister for Information and Culture 1980-82; High Commissioner to Canada 1982; Ambassador to the U.S.A. 1983-84; Minister for Information and Broadcasting 1990-92; Minister for Science, Technology and Higher Education 1992-95; Chairman of his Party, *Chama Cha Mapinduzi* 1996-2006; Co-Chair, World Commission on the Social Dimension of Globalisation 2002; appointed Commissioner, Commission for Africa 2004; Chairperson, Southern African Development Community 2003-04; Member, Panel of Eminent Persons appointed by UNCTAD Secretary-General to review and enhance role within UN reforms; Member, Panel on UN System-wide coherence in areas of Development, Humanitarian Assistance and Environment; Member, African Union Panel of Eminent Persons 2008; Chairman, South Centre; Co-Chair, Investment Climate Facility for Africa; Co-Chair, Africa Emerging Markets Forum; Board of Trustees, Africa Wildlife Foundation; Commissioner on UN Commission on the Legal Empowerment of the Poor 2006-08; Patron, UN Committee of 2008 International Year of Planet Earth; Member, Club of Madrid and Africa Forum.

Yoshihiro Mori
Prime Minister of Japan 2000-01
Born 1937. Graduated from Waseda University; First elected as Member of the House of Representatives of the National Diet 1969; Member of the Executive Council, LDP, 1974-75; Deputy Director-General of the Prime Minister's Office 1975-76; Deputy Chief Cabinet Secretary 1977-78; Minister of Education 1988-84; Chairman of the National Organization Committee, LDP 1987-88; Chairman of the Policy Research Council, LDP 1991-92; Minister of International Trade and Industry 1992-98; Secretary -General, LDP 1993-95; Minister of Construction 1995-96; Chairman of General Council, LDP 1996-98; Secretary-General, LDP 1998-2000; Prime Minister, 2000-01. Executive Board of UNESCO 1985-90; Advisor to H.M. King Hussein 1989; Director-General, Jordan Health Institute 1990-91; President, International Affairs Society (Jordan); President, Islamic World Academy of Sciences 1999-; Member of the Jordan Senate; Chairman, Jordan Senate Foreign Relations Committee.

Olusegun Obasanjo
President of the Nigeria 1999, 2003–07
Born 1937. Commissioned into Nigerian Army 1959; service with United Nations Peacekeeping Force in the Congo 1960-61; Commander, Engineering Corps 1963: General Officer commanding Third Marine Commando Division during Nigerian Civil War; led the Division to end the war and accepted surrender of Biafran forces in January 1970; Commander, Nigerian Army Engineering Corps 1970-75; Federal Commissioner for Works and Housing 1975; Chief of Staff, Supreme Headquarters 1975-76; member, Supreme Military Council 1975-79; Head of the Federal Military Government of Nigeria 1976-79; He thereafter went into agro-business; Established the Africa Leadership Forum 1988; He was imprisoned in 1995, General Bacha on a phony coup plot charge; Upon his release in 1998, he was elected President; Founded Bells University of Technology and launched the Olusegun Obasanjo Presidential Library 2005.

Andrés Pastrana
President of Colombia 1998-2002
Born 1954. Doctor in Law, Colegio Mayor de Nuestra Senora del Rosario; Fellowship, Harvard Center for International Affairs; Managing Director, Guion Magazine, Fundacion Colombiana de Comunicacion Social 1978-79; Managing Director, Datos Y Mensajes S.A. News Broadcasting Co. 1979-80; Director, TV Hoy News, Datos Y Mensajes S.A. 1980-87; Bogota City Council 1982-86; President, Plan Commission of Bogota 1982-86; Mayer of Bogota 1988-90; Member, Executive Committee, International Union of Local Authorities (IULA) 1988; President, Latin American Chapter, IULA 1988-89; Vice-President, Union of Ibero-American Capital Cities 1989; President, World Mayor's Drug Conference 1989-90; Senator, Republic of Columbia 1991-93; Secretary-General, Latin American Union Parties 1993-98; Director, United Nations University/International Leadership Academy 1994-95; Ambassador to the United States 2005-06.

P.J. Patterson
Prime Minister of the Republic of Jamaica 1992-2006
BA (Honours) in English, University of the West Indies 1954-58; LL.B Honours, London School of Economics 1960-63; Called to the Bar at Middle Temple and admitted to the Jamaican Bar 1963; Queen's Counsel 1983; Attorney-at-Law 1963-70, 1980-89; Senator, Leader of Opposition Business 1969-70; Minister of Industry and Tourism 1972-77; Deputy Prime Minister and Minister of Foreign Affairs and Foreign Trade 1978-80; Deputy Prime Minister and Minster of Development Planning and Production 1989-90; Deputy Prime Minister and Minister of Finance and Planning 1990-91; Prime Minister of Jamaica and Minister of Defence 1992-2006; Party Organiser for People's National Party (PNP) 1958-60; Member, National Executive Council – PNP 1964-2006; Member, the Party Executive – PNP 1964-2006; Vice President for the PNP 1969-82; Member, Constituency Executive – Westmoreland, 1969-2006; Member, Constituency Executive 1989-; Chairman of the PNP, 1983-92; President of the PNP, 1992-2006; Ministerial Chairman for Group of 77 and President of the African, Caribbean and Pacific Council of Ministers 1970; Jamaica's CARICOM Minister at the Signing of CARIFTA 1974; Chairman of the Group of 15, 1999-2001;

Presided at Meetings of the UN Security Council 2000-01; Chairman of CARICOM, 1994; Chairman of CARICOM External Negotiations Committee 1994-2006; Chairman for Group of 77 and China 2005.

Yevgeny Primakov
Prime Minister of the Russian Federation 1998-99
Born 1929. PhD in Economics 1972; journalist, deputy Editor-in-Chief correspondent in Arab countries, *Pravda* newspaper 1953-70; deputy Director, Institute of World Economy and International Relations, Academy of Sciences of the USSR (from 1991, Russian Academy of Sciences) 1970-77; Academician-secretary, World Economy and International Relations Department, Presidium member, Academy of Sciences 1988-89; Chairman Council of the Union, USSR Supreme Soviet 1989-91; Member, USSR Security Council 1991; Director, Russian Federation Foreign Intelligence Service 1991-96; Minister of Foreign Affairs, Russian Federation 1996-98; State Duma Deputy 1999-2003; President, Russian Federation Chamber of Commerce and Industry 2001-; Member: Russian Academy of Sciences, UN University Council, Rome Club.

Jerry John Rawlings
President of the Republic of Ghana 1993-2000
Born 1947. Enlisted as a flight cadet in the Ghana Air Force in 1967; won the coveted "speed Bird Trophy" as the best cadet in flying and airmanship; earned the rank of Flight Lieutenant in 1978; Chairman, Armed Forces Revolutionary Council in 1979; Chairman, Provisional National Defense Council in 1981-93; Head of State in 1979, 1981-93. He was elected President for the second time in 1996.

José Sarney
President of Brazil 1985-90
Born 1930. Federal Representative 1956-59, 1959-63 and 1963-67; Governor, State of Maranhao 1965-70; Federal Senator 1971-79, 1979-85, 1991-99, 1999-2007 and 2007-15; President of the Federal Senate and National Congress 1997-98, 2003-05; Chairman, Senate Committee on Foreign Relations and National Defence 1997-2000; Goodwill Ambassador of the Community of Portuguese Language Countries; Chancellor, National Order of Merit of Brazil; Member, Brazilian Academy of Letters; Member, Portuguese Academy of Sciences.

Constantinos Georgios Simitis
Prime Minister of Greece 1996-2004
Born 1936. Studied Law at the University of Marburg, W. Germany, Economics at London School of Economics; Elected MP (PASOK) in Piraeus A, 1985, 1989, 1990, 1993; Party chairman of PASOK 1996-2000; Re-elected MP (PASOK) in Piraeus A, 2004. Minister of Agriculture 1981-85; Minister of National Economy 1985-87; Minister of Education and Religious Affairs 1989-90; Minister of Industry, Energy and Technology 1993-94; Minister of Trade 1993-94, Minister of Industry, Energy and Technology 1994-95 and Minister of Trade 1994-95; Co-founder and secretary of the Alexander Papanastasiou Group (1965) changed its name in 1967 to Dimokratiki Amyna (Democratic Defence); Joined PAK, the Pan-Hellenic Liberation Movement 1970; Member of National Council; Founding member of PASOK 1974; Member of the first Executive Office of the party (1979) and of the founding Central Committee;

Re-elected, Central Committee 1984 & 1989; Re-elected, Central Committee and the Executive Office at the 2nd and 3rd PASOK party conferences; Elected Chairman, PASOK Party 1996, 1999, 2001-04; Lecturer at various West German universities 1971-75; Professor of Commercial Law at the Panteion University, Athens 1977-81; Author of a large number of works and studies.

George Vassiliou
President of the Republich of Cyprus 1988-93
Born 1931. Degree and Doctorate in Economics, University of Economics, Budapest. He subsequently specialised in marketing and market research in London; Member of Parliament 1996-99; Head of the Republic of Cyprus Negotiating Team for the accession of Cyprus to the European Union with responsibility for coordinating the harmonization process within the country 1998-2003; Chairman, MEMRB International, a major market research, marketing and economic consultancy organization; Chairman, Ledra and Innovation/Leo Burnett Advertising Companies; Member of Board and major shareholder in Alison Hayes Group (manufacturers of ladies clothing); Member of the Trilateral Commission; Member of the Board of Governors of the Shimon Peres Institute for Peace; Visiting Professor at the Cranfield School of Management in the UK; Honorary Doctorate from the University of Cyprus, Athens and Salonica, the University of Economic Sciences in Budapest and the University of Economic Studies in Belgrade. Honorary Professor of the Cyprus International Institute of Management (CIIM).

Richard von Weizsäcker
President of the Federal Republic of Germany 1984-94
Born 1920. Studied at Oxford and Grenoble Universities; Gottingen University 1945-49; Lawyer 1950-66; Member of the Synod and Council of the German Protestant Church 1967-84; Member of the Bundestag 1969-81; Governing Mayor of Berlin 1981-84; Guest professor at the universities of Dusseldorf and Frankfurt 1994-95; Chairman of the Commission "Common Security and the Future of the German Federal Armed Forces" 1999-2000; Member of the Eminent Persons Group advising Secretary-General Kofi Annan on "Crossing the Divide, Dialogue among Civilizations" 2001; Chairman of the Committee "Fluthilfe" (established by Chancellor Schroeder to aid the victims of flooding along the Elbe River) 2002-04; Member, International commission on the Balkans 2004; Member, Board of Humboldt University, Berlin 2006.

Ernesto Zedillo Ponce de Léon
President of Mexico 1994-2000
Bachelor's degree, School of Economics, National Polytechnic Institute, Mexico; M.A. and Ph.D., Yale University; Professor, National Polytechnic Institute and El Colegio de Mexico; Central Bank of Mexico, 1978-87; Undersecretary of Budget, National Government of Mexico, 1987-88; Secretary of Education 1988; Chairman, UN High Level Panel on Financing for Development 2001; Distinguished Visiting Fellow, London School of Economics 2001; Co-Coordinator, UN Millennium Task Force on Trade 2002-05; Co-Chairman with Canadian Prime Minister Paul Martin, UN Commission on the Private Sector and Development 2003-04; Co-Chair, Intl. Task Force, Global Public Goods 2004-06; Chair, Global Development Network 2005-; UN

Secretary-General's Special Envoy 2005 World Summit. Serves on several Commissions. Member of Foundation Board of the World Economic Forum/the Trilateral Commission/the Intl. Advisory Board of the Council on Foreign Relations/the Board of Directors of the Institute for Intl. Economics/the Board of Trustees of the Interl. Crisis Group, the Honorary Council of the Evian Group; Director, Yale Center for the Study of Globalization; Professor, Field of Intl. Economics and Politics, Professor Adjunct of Forestry and Environmental Studies, Yale University;

ASSOCIATE MEMBERS

Abdul Rahman Hamad Al-Saeed
Advisor, The Royal court (Saudi Arabia, Representing Mr. Abdul Aziz Z. Al-Quraishi)
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Deputy Prime Minister of the Republic of Korea 1990-91
Born 1931. Member of National Assembly, Republic of Korea 1976-80; Minister of Finance 1980-82; Deputy Prime Minister and Minister of Economics Planning Board 1990-91; Member of National Assembly 1992-96; Chairman of Korea-Germany Parliamentary Friendship Association 1992-96; Secretary General, The Korea-Japan Cooperation Council 1993-; Member of Senior Advisory Committee, Federation of Korean Industries 1998-; Special Advisor, Kumho Business Group 1996-.

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Associate Professor in International Law at Stockholm University; Adviser on International Law in the Ministry 1963-78; State Secretary for International Development Co-operation 1976-78; Minister for Foreign Affairs 1978-79; Director General of the International Atomic Energy Agency, Vienna 1981-97; Executive Chairman, UN Monitoring, Verification and Inspection Commission (UNMOVIC) 2000-03; Written several books on subjects associated with international and constitutional law and international affairs.

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Served in the Swedish judiciary, 1962-72; Joined the Ministry of Justice, 1972 and became Director of the Division for Administrative and Constitutional Law, 1979; Chief Legal Officer of the Ministry, 1981; Ambassador and Under-Secretary for Legal and Consular Affairs in the Ministry for Foreign Affairs, 1984-94; Retired from public service, 2004; Joined Sweden's largest law firm Mannheimer Swartling as a consultant, 2005; In parallel, engaged in the work of the International Bar Association and the International Center for Ethics, Justice and Public Life at Brandeis University. Chairman of the Board of Trustees of the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University, Sweden.

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Lord Chancellor 2003-2007
Commercial barrister until 1997; Solicitor-General 1997; Minister of State, Cabinet Office 1998-2001; Minister for Housing, Planning and Regeneration 2001-02; Criminal Justice Minister 2002-03; Lord Chancellor 2003-07; Secretary of State for Justice 2007.

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Born Graduated from Moscow State Inst. for Foreign Affairs 1971; Post graduate studies, Institute of U.S.A. and Canada, Studies Academy of Sciences of USSR 1972-76; PhD Historical sciences, Institute of USA and Canada 1984; Junior and Senior Research Fellow, Dept. of Foreign Policy 1976-82; Chief of Section, Dept. of Military and Political Studies, Institute of U.S.A. and Canada 1982-84; Representative, Institute of U.S.A. and Canada, Soviet Embassy in U.S.A. 1984-87; Leading Research Fellow, Institute of U.S.A. and Canada 1987-89; Chief of the Dept. of the Military and Political Studies, Institute of U.S.A. and Canada 1989-91; Deputy Director of the Institute of U.S.A. and Canada 1991-95; Director of the Institute of U.S.A. and Canada 1995-; Dean, School of World Politics and International Security, Institute of U.S.A. and Canada Studies 2000–; Corresponding member of the Russian Academy of Science; Head of the International Advisory Board, Security Council; Member of the Advisory Council of the Foreign Ministry; Advisor to the Committee on Foreign Affairs of the States Duma; Vice Chair of the Russian Pugwash Committee under the Presidium of the Russian Academy of Sciences; Members of Scientific Council of Federal Council of the Russian Federation, the Board of the Russian Foreign Policy Association, the Board of the Russian United Nation Assosiation, the Russian Academy of the Natural Sciences, the editorial board of the magazine "USA and Canada: Economy, Policy, Culture"; Author of more than 400 articles and 18 books.

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Born 1940. BA in Chinese Studies, Tunghai University 1961; MA 1963; PhD in history and East Asian studies, Harvard University 1988; taught Chinese intellectual history, philosophies of China, Confucian humanism at Princeton University 1967-71 and University of California at Berkeley 1971-81; also taught at Peking University, Taiwan University, the Chinese University of Hong Kong, and Ecole des Haute Etudes in Paris. Harvard faculty 1981-; Holds honorary professorships from Zhejing, Sun Yat-sen, Suzhou, Renmin, Foreign Languages Universities, Shanghai Academy of Social Sciences; Awarded honorary degrees from Lehigh, Michigan State (Grand Valley), Shandong, and Tunghai Universities; Invited by the United Nations as a member of the Group of Eminent Persons to facilitate the Dialogue among Civilizations, 2001 and gave a presentation on civilizational dialogue to the Executive Board of UNESCO 2004; International advisor, Rahman University in Kuala Lumpur; chair of the Advisory Board of the Inst. of Chinese Literature and Philosophy at the Academia Sinica, Taipei; vice-president of the International Confucian Association, Beijing; Fellow of the American Academy of Arts and Sciences; Published over a dozen of books in English. Currently studying the modern transformation of Confucian humanism in East Asia and tapping Confucian spiritual resources for human flourishing in the global community.

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INTERACTION COUNCIL

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Chairman's Report on the High-level Expert Group Meeting

Restoring International Law: Legal, Political and Human Dimensions

Chaired by Ingvar Carlsson

19 June 2008
Hotel Atlantic Kempinski
Hamburg, Germany

Introduction

The challenges that humankind is now facing as a result of the global economic development, climate change and the growing world population are unprecedented. The need for a rule-based international society has never been greater.

It is equally clear that to settle differences among States in today's world by unilateral use of force would have disastrous effects, yes even threaten human survival on earth. Past experience shows that differences that occur among states simply must be resolved by peaceful means as prescribed by the Charter of the United Nations.

The need for a rule-based international society has been affirmed by the General Assembly of the United Nations in no uncertain terms. In the Summit Resolution (A/RES/601, para. 134) the member states of the Organisation reaffirmed their commitment to the purposes and principles of the UN Charter and international law and to an international order based on the rule of law and international law. Indeed, they clearly stated that such an order "is essential for peaceful coexistence and cooperation among states".

In this 2008 High-level Expert Group meeting held on 19 June 2008 in Hamburg, Germany, the InterAction Council asked how international law could be restored. Particular focus was given to the legal, political and human dimensions.

A. International law

International law has long been a foundation of state sovereignty just as state sovereignty is one of the fundamental elements of international law. It is expressly referred to among the principles of the Charter of the United Nations. The sovereign equality of all states is in a sense a precondition for world governance. However, the way in which international law has developed over the years has caused a basic shift in the way sovereignty has to be understood in contemporary society.

In essence, sovereignty must now be exercised in the interest not of a sovereign but of the citizens and those who reside in the territory of the sovereign state. This applies in particular to observance of human rights standards and the principles of a society under the rule of law.

The globalisation and increasing interdependence among states also means that sovereignty must be exercised by entering into binding legal obligations and often through membership in international organisations (sometimes referred to as "pooled sovereignty"). The Charter of the United Nations regulates when state sovereignty has to yield as a consequence of decisions by the Security Council in the interest of the maintenance of international peace and security.

Over the years, an increasingly comprehensive system of international norms has been developed that imposes binding legal obligations on a range of international actors. In addition, institutions and processes to monitor compliance and address violations of international legal obligations have been established. In many fields the system works well and is more or less taken for granted. In reality, states make great efforts to

comply with their international obligations.

Seen in this perspective there has been a very positive development towards a rules-based international society. In particular it should be noted that, contrary to what some suggest, the legitimacy of the UN Charter is actually consistently upheld in the rhetoric of all States and the behavior of most. This progress in the building and strengthening of international law and international legal institutions should be commended and supported.

However, in certain areas that are central to state sovereignty the situation is more problematic. In recent years, we have seen a tendency among powerful states to act on their own, disregarding their obligations laid down in the UN Charter and other relevant international law. In some quarters there has also been a trend towards an approach that classifies international law as a disposable tool of diplomacy, meaning that its system of rules is merely one of many considerations to be taken into account by governments when deciding what strategy is most likely to advance the national interest in the particular situation at hand. This development is dangerous and entails a serious risk that the world community will lapse back into the society where, ultimately, conflicts were resolved by unilateral use of force – in other words the kind of society that in the past caused major conflicts and human suffering. Such behaviour defeats the purposes and principles of the United Nations and puts the world at risk.

The UN Charter forbids the threat or use of force against the territorial integrity or political independence of any state unless force is used in self-defence or in accordance with a decision by the Security Council under Chapter VII of the Charter. It is of utmost importance that these rules are followed, in particular by the powerful states and foremost by the five permanent members of the Security Council. Experience, not least from later years, shows that this is indeed in their interest.

The commitment by the General Assembly to an international order, based on the rule of law and international law, referred to in the Introduction, is of great significance. It goes without saying that such an important affirmation simply must be honoured.

In this context, one of the most important principles of the UN Charter must be reaffirmed: that member states shall settle their disputes by peaceful means. Disputes among states are a natural consequence of human coexistence. The critical factor is not the disputes as such, but how the disputes are settled. It is sad to note that there are still governments in charge of great nations that do not seem to have learnt the lessons from the past: that differences must be settled through dialogue, negotiation and other peaceful means and not through unilateral acts, arrogance and the threat or use of force.

The process of establishing an international society under the rule of law starts at the national level. In order to live up to their commitments in the Summit Resolution all states should meticulously examine to what extent they are able to observe these commitments and also honestly assess if they actually do observe them.

To develop a system under the rule of law is a lengthy and complex process. Some states have been advantageous and have been able to work towards such a system over a long period of time. Others have been less fortunate, in many cases for the

simple reason that they only recently gained their independence. In cases where states need assistance, legal technical assistance should be offered.

With globalisation and increased interaction among states the international norms must be further developed. Increasingly, states must make commitments that, when entered into, bind the national legislators. This should not be seen as limiting state sovereignty but rather as an expression of state sovereignty. However, once such undertakings are made, they must be observed. Therefore, states must see to it that their constitutional systems do not prevent them from observing their obligations under international law.

At the same time, it is important that careful examination is made of the interrelationship between various international undertakings. The increasing number of international norms will require a coordination of a nature that should be applied in the legislative process at the national level in a state under the rule of law. If not, there is a risk that different international instruments might express contradictory obligations or lead states to make undertakings that are difficult to fulfil in a consistent manner.

There is today much talk about new actors in the field of international law. The engagement of the non-governmental organisations has a long tradition. Their engagement both at the national and international level is a necessary component in a democratic society.

However, gradually we have witnessed the involvement of other actors, in particular from the business community. This involvement, often demonstrating an engagement to strengthen human rights, should also be welcomed and supported.

B. Analysis of violations of international law in later years

Since real security for individuals, for groups, for nations and for the world in its entirety comes through adherence to law, at the domestic level and also at the international level, violations of the law must be viewed with utmost seriousness.

Consideration might therefore be given to identifying systematically individual and concrete violations of this kind committed in later years and recording them in a structured manner for educational purposes. However, a precondition for such a system to contribute to a positive development would be to secure statements or interpretations that make clear with sufficient authority that what has occurred actually is a violation of international law. Experience shows that such matters are highly political, and unless the issue has been settled by an authoritative international institution, like for example the International Court of Justice, the listing of such instances might not be helpful but would rather give rise to political controversies.

Therefore, such matters may best be left to the general political debate at the national level and in international forums. The Security Council has an obvious role in such situations in accordance with Chapters VI and VII of the UN Charter. But in order to act with authority the members of the Council must then themselves scrupulously abide by the Charter.

However, in this context it is important to put on record that several issues were raised in the High-level Expert Group meeting. Because of its long history and the damage that it has caused and causes to the respect for international norms, the conflict in the Middle East was discussed in particular. The violations of international law that have been committed over the years in this conflict can no longer be tolerated. If the Middle East conflict is not addressed with determination, applying the same standards to all, this will have serious consequences for the credibility of the international legal system. The present situation weakens respect for international law in general and provides an excuse for states, particularly in the developing world, to refuse to address violations of international law, especially human rights law, by other states.

It was also noted that recent violations of fundamental obligations in relation to the use of military force pose a particular challenge to global perceptions of the efficacy of international law. As previously referred to, the UN Charter permits military force only when authorised by the Security Council or where it is exercised in self-defence if an armed attack occurs or when the threat is imminent. Recent claims to a more expansive view, including assertion of a right to use military force to prevent even the possibility of a threatening situation developing on the basis of a subjective assessment by a particular state deciding to act entirely unilaterally, should be vigorously opposed.

At the same time it was noted that the state that has announced this policy, the United States of America, has been the most active and constructive contributor to the development of the present system for the maintenance of international peace and security, including in particular the development of the UN Charter, and that it deserves to be recognised for this.

It was also noted that the State community should have been able to act with more determination in other situations, for example those obtaining in Darfur, Zimbabwe and Myanmar.

Furthermore, it should be put on record that many states that have ratified treaties, for example in the fields of human rights and labour law, have not fulfilled their obligations to properly implement these treaties at the national level and therefore fall short of fulfilling their international obligations.

C. How can violations of international law be avoided in the future?

An important element in defining the best way to avoid violations of international law in the future is to focus on the long-time perspective. Thus, it is of essence that states define their interest not in a narrow and immediate approach to interest gratification but in a more strategic and circumspect manner.

World governance should be based on lessons learnt. Over the years an impressive body of international law has been developed. Based on the experiences of two world wars in the last century, the United Nations was established after World War II in order to "save succeeding generations from the scourge of war". Its Charter was designed in a manner that it would supersede obligations based on other international agreements (Article 103).

The damage that some of the actions taken during the last few years has caused to the credibility of the system for collective security laid down in the UN Charter is serious. This system must be restored and upheld with greatest determination. This can only be accomplished with a firm commitment demonstrated in practice by the powerful states.

In more general terms the best way for states to promote justice and the rule of law would be to strictly adhere to the UN Charter and to work at the national level to enhance the rule of law. This is also a field where states can enter into a dialogue, and those who are in a position to assist should be prepared to provide those in need with assistance.

Another aspect is that the interrelationship among states must be based on equality. It should be understood that all human beings are entitled to strive for the same level of development. This involves questions of an ethical nature and requires that populations in developed countries are prepared to share and accept the consequences that will follow when others compete in order to develop.

One of the most serious threats to human security is terrorism. Therefore it is important that states cooperate in combating this scourge. But this is not a war. Terrorism should be treated as criminal acts to be handled through existing systems of law enforcement and with full respect for human rights and the rule of law. This is indeed also foreseen by the General Assembly of the United Nations when it adopted its Global Counter-Terrorism Strategy (A/RES/60/288, Plan of action, section IV).

Another way of strengthening the international legal system would be for the parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) to actually fulfil their obligations under that treaty. This applies in particular to their obligations under Article VI to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control. They should therefore engage anew in constructive disarmament negotiations and on arms control.

In this context states should as an immediate step consider concluding a treaty prohibiting first use of weapons of mass destruction.

Another step that would be of great importance is if states would systematically review the extent to which they are parties to relevant international treaties and re-examine the reasons why they have not so far ratified or acceded to treaties to which they are not party.

The main obstacle to universal participation in some key treaties is most probably not that states are unwilling to ratify or accede to the treaty in question. Rather, the reason is that there is a lack of competence at the national level. In such situations, governments should not hesitate to ask for assistance from other states, international organisations or non-governmental organisations.

Of even greater importance would be if states, if necessary with assistance from relevant international organisations or others, engaged in examining to what extent

their legal system needs strengthening. Based on such assessment they should decide what legal technical assistance they might need and make the appropriate contacts with those who are in a position to deliver such assistance. International organisations and in particular the United Nations have an important role to play here.

The rule of law is something that has to be encompassed by people in general; it must be based on the popular understanding that the rule of law is necessary for good relations not only among individuals or between individuals and their government but also in relations among states.

A significant contribution to avoiding violations of international law in the future would be to devote resources to education of the basics of international law and the meaning of the rule of law at the national and international level. This education should start as early as possible and be developed as appropriate for all levels: different school levels, university and professional level. Particular attention should be given to educating judges and politicians. The media have an important role to play in making people aware of the necessity of a rule-based society.

Recent experiences also point to the need for members of the legal profession and in particular those who give advice in matters relating to international law to strictly observe the professional and ethical standards that are fundamental to their vocation. This should be respected by those who depend on their services.

Obviously, the non-governmental organisations should continue their activities in order to enhance respect for human rights and the rule of law. By also providing reasoned criticism and where possible technical assistance they should be able to assist states in a constructive manner.

Recommendations

The Chairman of the High-level Expert Group Meeting recommends the following:

- Accepting that the challenges that mankind is facing must be addressed through multilateral solutions within a rule-based international system.

- Supporting faithfully the United Nations and other international organisations of which they are members while at the same time ascertaining the transparency and accountability of those organisations.

- Observing scrupulously their obligations under international law, in particular the Charter of the United Nations. The great powers must set the example by working within the law and abiding by it, realising that this is also in their interest.

- Accepting that the Charter of the United Nations does not allow pre-emptive use of force.

- Adhering to their commitment to settle international disputes by peaceful means and accepting the compulsory jurisdiction of the International Court of Justice.

- Realising that it is necessary for states to engage in discussions also with those with whom they have controversies in order to explore the possibility of resolving the difference.

- Acting with authority and consequence in situations where it is necessary for the Security Council to exercise the responsibility to protect as defined in the General Assembly's Summit Resolution (A/RES/60/1, para. 139).

- Paying particular attention to the observance of human rights and fundamental freedoms. If this is not already the case, these standards should be manifested in the constitution through a Bill of Rights.

- Accepting as legitimate reasoned criticism by international organs, including the Secretary-General of the United Nations, and non-governmental organisations of their human rights performance, engaging in a serious analysis of such criticism and, if required, taking the necessary steps to remedy the causes for the criticism.

- Treating terrorism as criminal acts to be handled through existing systems of law enforcement and with full respect for human rights and the rule of law.

- Fulfilling their obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), in particular their obligations under Article VI of the treaty, and engaging anew in constructive disarmament negotiations and arms control.

- Considering to conclude a treaty prohibiting first use of weapons of mass destruction.

- Reviewing the extent to which they are parties to relevant international treaties and re-examining the reasons why they have not so far ratified or acceded to treaties to which they are not party.

- Examining to what extent their legal system needs strengthening and deciding for themselves what legal technical assistance they might need and making the appropriate contacts with the United Nations or other organisations – governmental as well as non-governmental – that are in a position to deliver such assistance.

- Devoting resources to education at all levels, including by engaging the media, of the basics of international law and the meaning of the rule of law at the national and international level. Particular attention should be given to educating judges and politicians.

- Respecting that members of the legal profession and in particular those who give advice in matters relating to international law have an obligation to strictly observe the professional and ethical standards that are fundamental to their vocation.

High-Level Expert Group Meeting
List of Participants

Restoring International Law: Legal, Political and Human Dimensions

19 June 2008
Hotel Atlantic Kempinski, Hamburg, Germany

List of Participants

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2. H. E. Mr. Malcolm **Fraser**, Honorary Chairman□Former Prime Minister of Australia□
3. H. E. Mr. Ingvar **Carlsson**, Chairman (Former Prime Minister of Sweden)
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5. H. E. Mr. Olusegun **Obasanjo** (Former President of Nigeria)

Associate Members

6. Baroness **Jay**, Chairperson of the Overseas Development Institute, London (U. K.)
7. Mr. Seiken **Sugiura** (Former Justice Minister of Japan)

High-level Experts

8. Prof. José E. **Alvarez**, President of American Society of International Law (USA)
9. Prof. Nisuke **Ando**, Professor of International Law, Faculty of Law, Doshisha University (Japan)
10. H. E. Dr. Hans **Corell,** Ambassador, Former Under-Secretary-General for Legal Affairs and the Legal Counsel of the United Nations (Sweden)
11. Prof. Dr. John **Dugard**, Chair in Public Int'l Law of University of Leiden (South Africa)
12. Prof. Thomas M. **Franck**, Murry & Ida Pecker Professor of Law Emeritus, New York University of Law (USA, by telephone conference)
13. Mr. Nagao **Hyodo** (Former Japanese Ambassador to Belgium)
14. Prof. Dr. Doris **König**, Bucerius Law School (Germany)
15. Dr. Benjamin Bewa-nyog **Kunbuor**, Lecturer in the Ghana School of Law and Researcher (Ghana)
16. Prof. Timothy L.H. **McCormack**, Professor of International Humanitarian Law, University of Melbourne Law School (Australia)
17. Prof. Brigitte **Stern**, Professeur à l'Université Paris 1 – Panthéon-Sorbonne (France)
18. Prof. Dr. H.C. Christian **Tomuschat**, Professor of Public Law and International & European Law, Humboldt University of Berlin (Germany)

INTERACTION COUNCIL

Terms of Reference

High-level expert group meeting

Restoring International Law: Legal, Political and Human Dimensions

19 June 2008
Hotel Atlantic Kempinski, Hamburg, Germany
Chaired by: Ingvar Carlsson (Former Prime Minister of Sweden)

A. International law

Over time, international law has come to cover ever wider areas. The development over the last 50-60 years is without precedent. This development gives rise to a number of questions that need to be analysed.

State sovereignty and multilateralism are questions that are subject of intense debate.

- How is State sovereignty, one of the fundamental principles in the Charter of the United Nations, to be understood today against the general message of the Charter and the development of international law – in particular human rights law and humanitarian law?
- Are there changes in the perception of the usefulness of multilateral solutions to common problems in later years?

Democracy and the rule of law are often referred to in the debate. The General Assembly of the United Nations has made clear commitments to the rule of law at the national and international level. In particular, in the Summit Resolution the Member States of the United Nations recommitted themselves to actively protect and promote all human rights, the rule of law and democracy.[1]

On 22 June 2006, the Security Council held a day-long open debate on the Council's unique role in promoting and strengthening the rule of law in international affairs and agreed on a Presidential Statement which contains the following sentence: "The Security Council attaches vital importance to promoting justice and the rule of law, including respect for human rights, as an indispensable element for lasting peace."[2]

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[1] General Assembly resolution A/RES/60/1. See in particular paragraphs 11, 16, 21, 24 (b), 25 (a), 119 and 134.
[2] S/PRST/2006/28. See also http://www.un.org/News/Press/docs/2006/sc8762.doc.htm

- What does the commitment by the General Assembly mean? And how can this be done?
- Could it against the background of the manifestations by the Assembly and the Council be said that international law means that the foremost duty of any government is to strengthen democracy and the rule of law?
- Is there a right to democracy in terms of "human rights" under international law?

There are rules in the UN Charter that forbid the use of force against the territorial integrity or political independence of any state unless certain conditions are met.

- How are these laws respected?

In more general terms the following questions could be put.

- What is the relationship between norms adopted at the national level and norms adopted at the international level?
- Reference is often made to the "proliferation" of international norms, both binding norms and so-called soft law. Will this pose a risk for a coherent international legal system in the future?

It is evident that new phenomena will occur that require new rules at the international level. New rules are also an inevitable consequence of globalisation.

- Will an increasing number of international agreements pose a risk that obligations will be contradictory?
- If so, what will be the difficulties when the obligations are to be implemented and applied?
- Is there a risk that the system becomes inconsistent? If so, will there be negative effects on the respect for the norms agreed upon?

Reference is often made to new actors on the international arena.

- Who are the new actors in the field of international law?
- Is there a risk that transnational enterprises undermine the authority of national governments?

B. Analysis of violations of international law in later years

The point is often made that one of the root causes to the problems that we face in the world today is that international law is not fully applied or not applied equally to all. In the media there is a constant flow of information relating to violations of international law.

- Is it possible to list individual and concrete violations of this kind committed in later years in a structured manner for educational purposes?

It is often said that international law is not so clear, and different opinions are often expressed in the debate over specific actions by States.

- How can one best secure authoritative interpretation in such situations?

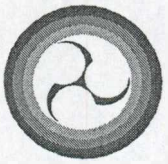
C. How can violations of international law be avoided in the future?

Taking the words of the Security Council as a point of departure it is obvious that justice and the rule of law, including respect for human rights, are indispensable elements for lasting peace, the following questions should be analysed.

- Which is the best way for governments to promote justice and the rule of law?
- What is the role of intergovernmental organizations in this field?
- Is there a way of organising legal technical assistance in a more efficient and effective manner than what is the case today?
- What is the role of the media in this context? How can they best be engaged?
- Is there a way in which business can be engaged in addition to the Secretary-General's Global Compact and within the framework of Corporate Social Responsibility?
- What is and what should be the role of NGOs in promoting democracy and the rule of law?

Some States are still not party to key international agreements. The Secretary-General is trying to encourage adherence to such treaties through the annual Treaty Event.

- Are there other actions that could be taken to increase participation in such treaties?
- What are the principal obstacles to universal participation in some key treaties and what measures could be pursued to increase the level of participation?



INTERACTION COUNCIL

Paper submitted to the High-Liver Expert Group Meeting

Restoring International Law: Legal, Political and Human Dimensions

19 June 2008, Hamburg, Germany

"The Power of Legitimacy and the Legitimacy of Power: International Law in an Age of Power Disequilibrium"

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THE POWER OF LEGITIMACY AND THE LEGITIMACY OF POWER: INTERNATIONAL LAW IN AN AGE OF POWER DISEQUILIBRIUM

*By Thomas M. Franck**

I. "REALISM" AND LEGITIMACY

The American Society of International Law (ASIL), incorporated by Act of Congress in 1950, was founded in 1906 "to promote the establishment and maintenance of international relations on the basis of law and justice." As we celebrate the centennial of this, the Society's principal publication, it is appropriate to examine the present and future prospects of this project. Is it still a compelling aspiration in the era of U.S. superpower-dom?

The founding of the Society and initiation of the *Journal* (*AJIL*) must be seen in the context of the then-prevalent American commitment to the idea that a world of international law and international tribunals would be a natural, even historically inevitable, extrapolation of a good American idea.[1] Speaking in 1890 to the first Pan-American Conference, President Benjamin Harrison congratulated the delegates on formulating a hemispheric arbitration agreement. "We rejoice," he said, "that you have found in the organization of our Government something suggestive and worthy of imitation."[2] At The Hague in 1907, Secretary of State Elihu Root, the founding president of the ASIL, called for the creation of an international court "which would pass upon questions between nations with the same impartial and impersonal judgment that the Supreme Court of the United States gives to questions arising between citizens of the different States."[3]

Even then, such a positive view of the potential of international law and legal institutions probably never truly reflected the view of two-thirds of the Senate nor, in all likelihood, a majority of the American public. At the end of World War II, the brief flourishing of the American-led World Peace Through World Law movement, inspired by Grenville Clark and Louis B. Sohn's book of that name,[4] again attracted the attention of law professors and internationally minded legal practitioners, but their enthusiasm was just briefly, if at all, shared by the general public and its representatives in Congress.[5]

* Of the Board of Editors.

[1] THOMAS M. FRANCK, JUDGING THE WORLD COURT 14 (1986). This founding followed by more than three decades the convening of the Institut de Droit International in 1873 at Ghent, which set as its purpose in Article 1 of its Statute, "to encourage the progress of international law in striving to become the organ of the juridical conscience of the civilized world." MARTTI KOSKENNIEMI, THE GENTLE CIVILIZER OF NATIONS: THE RISE AND FALL OF INTERNATIONAL LAW, 1870–1960, at 41 (2001) (trans. by author).

[2] *Closing the Conference*, N.Y. TIMES, Apr. 20, 1890, at 5.

[3] *Instructions to the American Delegates, in* 2 JAMES BROWN SCOTT, THE HAGUE PEACE CONFERENCES OF 1899 AND 1907: DOCUMENTS 191 (1909).

[4] GRENVILLE CLARK & LOUIS B. SOHN, WORLD PEACE THROUGH WORLD LAW (1958).

[5] It was not shared, either, by an influential lawyer who had migrated to the field of international relations, Prof. Hans Morgenthau. *See* HANS MORGENTHAU, IN DEFENSE OF THE NATIONAL INTEREST: A CRITICAL EXAMINATION OF AMERICAN FOREIGN POLICY (1951).

Nevertheless, for more than a century, it has been the common belief among American international lawyers and professors, as well as occupants of the White House if not the Congress, that the promotion of international law is a worthy cause, one that, over time, will triumph over narrow nationalism and, in so doing, will promote the peaceful settlement of disputes and a common, cooperative approach to the resolution of global issues.

It is thus interesting to note, on the occasion of the *AJIL*'s centenary, that this is no longer the unchallenged view among American international law professors and practitioners, let alone occupants of the White House. Emerging is a rather different approach that classifies international law as a disposable tool of diplomacy, its system of rules merely one of many considerations to be taken into account by government when deciding, transaction by transaction, what strategy is most likely to advance the national interest. Moreover, in the radically revisionist "rational choice" view of conflict adopted by some professors and practitioners, law has no greater claim than any other policy or value preference.

While this view is probably not yet held by the majority of American international lawyers, it now enjoys a wider following among American scholars than at any time in the past century, even allowing for some manifestation of isolationist sentiment in the 1930s. As for the leaders of the executive branch, it appears to be the common intuition that international law is to be seen as an anomaly, a myth propagated by weak states to prevent the strong from maximizing their power advantage.

As we celebrate our publication's centenary, this evolution in our ranks is worth considering, not so much for what it tells us about our past but for what it augurs for the future. Are we, mostly, going to come to believe that international law really is just a chimera spun by those states with little power, aided by a few Pollyannaish professors? The logic behind such a prognosis is not derisory. When a nation is the world's only superpower, why should it permit itself to be bound by norms and rules that may not always produce results that accrue to its advantage? Why should any state, in deference to law, ever forgo a realizable advantage and accept an outcome that does not maximize its national interest?

It should not and does not is the answer proffered by American advocates of "rational choice" in their theoretical writings and political practice. Increasingly, leaders of the nation and some leading theoreticians seem to have concluded that international law—even when evidenced by treaties, let alone mere custom—amounts to no more than, at most, evidence of states' temporary coincidence of self-interest. It would thus be illusory to expect law's strictures to be obeyed by powerful sovereign states when it does not serve their interest.[6]

Nevertheless, even the most dedicated contemporary American exponents of this version of "realism" are reluctant to adopt the position, so brashly flaunted by leaders and academics in Hitler's Germany, that it is the unequal distribution of power, itself, that makes classical international law, with its fastidious concern for state sovereignty and sovereign equality, so unrealistic and, hence, such a toothless factor in the choice of national-interest-maximizing strategies. Rather, they tend to the position that it is the weakness of the antiquated rules of international law—for example, in failing to distinguish between the rights of decent states and indecent ones—that makes American adherence to it irrational. Claiming that the United Nations Charter–based system has failed, they argue, in the name of realism, for sweeping it

[6] A leading, deeply historico-cultural exposition to the contrary is *Bloody Constraint: War and Chivalry in Shakespeare*, by Theodor Meron (1998), which makes a telling case based on the history of chivalrous warfare, to the effect that rules arise naturally out of societies—not necessarily ones in which the members are friendly with one another—on the basis of experience in calculating long-term mutual advantage.

aside[7] in favor of a new American (or, if possible, American-led) international order, one that America's more skeptical European friends have dubbed "legalised hegemony."[8]

To illustrate their point, American "realist" scholars point to the frequent instances in which all states—not just the United States—as a matter of rational choice still pursue their preferences by recourse to force. After examining state practice, Professor Michael Glennon finds it impossible "to avoid the conclusion that use of force among states simply is no longer subject—if it ever was subject—to the rule of law."[9] In a far more sweeping observation, Professors Jack Goldsmith and Eric Posner state that "international law does not pull states toward compliance contrary to their interests, and the possibilities for what international law can achieve are limited by the configurations of state interests and the distribution of state power."[10] These statements claim to be empirically verifiable. They assert as fact a universal tendency to disregard, or to de-emphasize, international norms when they interdict the pursuit of national self-interest.

It is not insignificant that the titles of both Glennon's recent book and the even more recent one by Goldsmith and Posner feature the "limits" of international law. Yet this effort by American international law scholars to unmask the law's fecklessness is recent and, significantly, finds virtually no echo among legal scholars outside the United States.[11]

Not surprisingly, however, the claim resonates strongly in the halls of American governance. There, deploying similar reasoning, U.S. political leaders derive impetus and justification for their recurrent recourse to force in the national interest, whether legal or not. In America we thus increasingly appear to be in the grip of a mutually reinforcing "realist" symbiosis between intellectuals and government, one in which thinkers and doers—not infrequently the same persons, moving smoothly from one bailiwick to the other—have sought to demonstrate, in thought and deed, that both law-adherent and scofflaw state behavior are more or less equivalent options in the exercise of sovereignty. In this view, law is not privileged and has no independent value. States, it is argued, do not obey the law "because they ought to" but only when it serves national policy interest. Since this is what states, in fact, do, it would be naive to pretend—or, worse, to act—otherwise. Law's power to pull states toward compliance, in this analysis, derives solely from its occasional coincidence with "real" motives, such as states' perception of the advantage to be gained from compliance, or the perceived costs of noncompliance. Accordingly, states never obey law solely because of some non-case-specific belief in the rule of law per se.

Importantly, while this sounds like a purely descriptive-empirical observation, it also has enormous prescriptive potential. If this power-realism is the prism through which law's purchase is to be understood in the future, that perception—right or wrong as a description of the present—can indeed become a self-fulfilling prophecy. In any society, but especially among states, the compliance pull of law is based on the expectation of each participant that most others, most of the time, will obey the law—all of it, not just some subsets, and not only when it

[7] Michael J. Glennon, *The New Interventionism: The Search for a Just International Law*, FOREIGN AFF., May/June 1999, at 2.

[8] GERRY SIMPSON, GREAT POWERS AND OUTLAW STATES: UNEQUAL SOVEREIGNS IN THE INTERNATIONAL LEGAL ORDER 220 (2004).

[9] MICHAEL J. GLENNON, LIMITS OF LAW, PREROGATIVES OF POWER: INTERVENTIONISM AFTER KOSOVO 84 (2001).

[10] JACK L. GOLDSMITH & ERIC A. POSNER, THE LIMITS OF INTERNATIONAL LAW 13 (2005). For a review of this book in this issue, see Edward T. Swaine, Review Essay, 100 AJIL 259 (2006).

[11] This dissonance is surveyed in Rüdiger Wolfrum, *American-European Dialogue: Different Perceptions of International Law—Introduction*, 64 ZAÖRV 255 (2004), and Hansperer Neuhold, *Law and Force in International Relations—European and American Positions*, *id.* at 263.

is in their immediate interest to do so. That law has an inherent capacity to generate compliance is a *Grundnorm* as fundamental to the state system as it is ephemeral. It cannot be proved by reference to some antecedent norm. It is an article of faith, yet one that underpins the verifiable reality of a world in which sovereign states interact in a structured system of rules and an expectation of compliance.

That such rule-based systemic interaction exists at all among states is now being seriously debated, much to the surprise of those who had prematurely celebrated international law's arrival at a post-ontological moment.[12] Although the argument has focused on the law that purports to limit states' right to have recourse to force in their relations with peers, the discourse is increasingly implicating not only that one—for the United States—inconvenient norm, but the legitimacy of international law in general.

Both sides of the argument seem to grasp the larger stakes. Those who defend the bindingness of international law understand that law compliance is not just the consequence of strategic calculation by parties to a particular agreement—say, the one establishing the Universal Postal Union—that compliance is to their advantage. Rather, and more important, general compliance reflects most states' belief that freely incurred obligations should be met.

This belief in rule adherence is essential to the existence of an ongoing normative system of relations between sovereign states. It emanates from the value states place in law's ability to make interactions predictable. That faith in law's ability to predict state behavior is the key to its ability to pull nations toward voluntary compliance. And this is true of all law, not just the law of nations. The real power of law to secure systematic compliance does not rest, primarily, on police enforcement—not even in police states, surely not in ordinary societies, and especially not in the society of nations—but, rather, on the general belief of those to whom the law is addressed that they have a stake in the rule of law itself: that law is binding because it is the law. That, of course, is a fragile psychological belief, one, moreover, that is unverifiable. While, in every community, it constitutes an essential social construct, it is easily deconstructed. If one were able to ask the bumblebee, with its aerodynamically unviable body-to-wing ratio, how it manages to fly, it might well fall to the ground.

A grave responsibility is thus incurred by those who undermine the general belief in the independent capacity of law to affect compliant behavior, even if they direct their attack to one particularly vulnerable subset of laws. For, in essence, the debate is not merely about Article 2(4) of the UN Charter. It is not just about whether a universal treaty adhered to by 191 countries is a disposable instrument. It is about the weighing of power against legitimacy. It is a struggle for the soul of the community of nations.

That struggle will be waged with the weaponry of facts, but, more important, with that of perceptions. When a community loses faith in law's power to restrain and channel conduct, this perception propels the descent into anarchy. Of course, such a loss of faith may indeed be based, at least in part, on the perceived prevalence of unlawful behavior, on the failure of law to secure consistent compliance. But instances of noncompliance do not, in themselves, prove the inefficacy of the rules. Law is never perfectly obeyed. In cities pedestrians jaywalk, and in nations taxpayers cheat. Murders go unpunished.[13] And when intellectual and political leaders speak and act as if unlawful behavior had nullified the law, or demonstrated its "limits," they

[12] I am particularly guilty of this hubris. *See* THOMAS M. FRANCK, FAIRNESS IN INTERNATIONAL LAW AND INSTITUTIONS 4–8 (1995).

[13] Ian Brownlie has observed that, statistically, the domestic legal order of states much more frequently dissolves into revolution and civil war than the international legal order succumbs to the illegal recourse to force. IAN BROWNLIE, THE RULE OF LAW IN INTERNATIONAL AFFAIRS 14 (1998).

help create the ensuing anarchy. Nevertheless, it is the perception that law has lost its purchase, not the unlawful behavior itself, that propels the descent into social chaos.

The central role of perceptions is particularly evident in the international legal system. In the absence of a reliable international police to enforce the law, much depends upon a commonly shared belief—a prediction—that state conduct will definitely be constrained by the commitments states have accepted, either by specific consent or by virtue of their membership in a rule regime such as the United Nations. In the interstate community, the belief that *pacta sunt servanda*—that treaties, all treaties, are binding, and not just when they are convenient or advantageous—is what keeps the bumblebee of international law aloft. Belief in the law facilitates the freedom of sovereign states to act in their best interests by entering into binding arrangements. Most would agree that the freedom of states to bargain away short-term benefits in the expectation of longer-term rewards—a very useful device for realizing mutual advantage—is kept aloft by the perception that law is not merely a coincidence of self-interest: that a state on the losing end of a World Trade Organization arbitration today will comply because it can expect to win a subsequent dispute, and then justifiably expect the losing party to comply in deference to the ongoing practice of compliance. In this pattern of continuing interactions, compliance is almost always the rational choice, in every state's self-interest, because every state has a stake in actualizing the belief that the law, habitually, obligates compliance.[14]

To the "realists," this notion—that law functions to validate an expectation of compliance—is mere wishful thinking and does not comport with actual state behavior. In practice, don't states flout international law whenever it suits their interest? Well, actually, no. The real "reality" of state conduct is not that states habitually disobey the rules when they do not serve their immediate interests, but, to the contrary, that there is a demonstrable historical pattern of prevalent state compliance. This pattern, it happens, is most sorely tested in that area of international law which limits the right of states to have recourse to military force. But, even there, noncompliance is very much the exception. Unfortunately, the facts of state behavior are less important than the perceptions. It is the *perception* of habitual noncompliance that determines the toll unlawful behavior actually takes on law's capacity to maintain social order.

To illustrate: when, in a town, one murder goes unsolved and unpunished, its inhabitants would be very unlikely to conclude that they no longer lived under the rule of law. However, if a dozen murders, committed in a short time-span, similarly go unsolved, perceptions become crucial. Some citizens will demand the hiring of more police, while others may try to take advantage of the law's weakness; say, by indulging their latent talent as graffiti artists—or even as murderers. Which of these tendencies prevails—the law-reasserting or the law-deconstructing one—will be determined to a large extent by the general perception of the ability of the law to withstand its violations. The reality of the law's resilience will depend on the prevailing perception of that resilience. The "spin" put on law's capacities and prospects thus, in large part, determines its ability to survive and assert itself even against egregious or endemic violation.

This essay is intended partly to rebut the negative "spin" put on international law by a small, but growing number of American colleagues, not only in government but also in the academy.

[14] This view of the law does not argue that international lawyers should deny the effects of nonlegal factors on national behavior. On the contrary, "international lawyers would . . . benefit from a broader perspective," and a greater familiarity with the dynamics of political power "would in no way undermine the inherent stability and determinacy of international law." MICHAEL BYERS, CUSTOM, POWER AND THE POWER OF RULES 15 (1999). This is more likely to prove true if the lawyer, in familiarizing herself with power dynamics, keeps uppermost the professional commitment to the law. For an excellent summary of the argument that all states have an interest in the efficacious operation of law within the community of states, written from the perspective of moral philosophy, see ALLEN BUCHANAN, JUSTICE, LEGITIMACY, AND SELF-DETERMINATION: MORAL FOUNDATIONS FOR INTERNATIONAL LAW 289–327 (2004).

Such a response matters, because how that spin is perceived—among academics, the students they teach, and the lawyers in government they sometimes become—will largely shape future reality.

The shaping of "spin" is not to be looked down upon: it is serious business. It is about the shaping of the all-important perception of reality that determines how societies react to the challenges they face. International society, currently, is facing the familiar challenge of the scofflaw. When laws are not obeyed and violations go unpunished, it is perfectly natural for people to ask whether the imperfectly obeyed and imperfectly enforced norms have ceased to be binding on the community. One way to ask this question is: Has the imperfectly enforced rule of law lost its legitimacy? Has the law lost its compliance pull? Has law's legitimacy yielded to the naked facts of power? To address such important questions, it is necessary to examine the anatomy of compliance pull in more depth.

Sixteen years ago, in a book about legitimacy, I posed the question: Why do nations obey rules?[15] My answer was that, at least in part, they obey because they perceive the rule and its institutional penumbra to have a high degree of legitimacy. Forced, then, to answer the next question—What is legitimacy?—I argued that legitimacy is the capacity of a rule to pull those to whom it is addressed toward consensual compliance. That argument does not claim that a rule's legitimacy is the sole or, in some instances, even the primary reason a state chooses to obey the law. It does not maintain that lack of legitimacy is necessarily the sole or primary reason for any state's decision not to comply. It does claim, however, that states, in determining whether or not to obey the law, usually take into account their interest in the law as such, quite aside from whether, in any particular instance, the rules serve the national interest by validating a desired outcome. Rational choice, in other words, must take into account the important interest of a state—even a superpower—in strengthening the rule of law in interstate relations by making itself hostage to the rule, through compliance with it, even to the detriment of short-term national interests.[16]

In writing about the power of legitimacy, my primary objective was to demonstrate that rule legitimacy matters, so I focused on the elements that reinforce it: *determinacy, symbolic validation, coherence, and adherence.* Of these, determinacy seems the most important, being that quality of a norm that generates an ascertainable understanding of what it permits and what it prohibits. When that line becomes unascertainable, states are unlikely to defer opportunities for self-gratification. The rule's compliance pull evaporates.

Recent actions of states in Kosovo and Iraq have led to questions about the continuing compliance pull of the fundamental rule of the post–World War II legal order, the rule contained in Article 2(4) of the UN Charter that prohibits states' unilateral recourse to force except (per Article 51) in response to an armed attack. Like the "realists," I am aware that noncompliance with that law is undermining respect for it, and for international law in general. My concern is that noncompliant behavior, if tolerated, may render the content of that rule so indeterminate as to make it easy and tempting to be a scofflaw. Must we conclude that what NATO did with respect to Kosovo and what the U.S.-led states did in invading Iraq have generated a widespread perception that violations of the international law restraining states from recourse to

[15] THOMAS M. FRANCK, THE POWER OF LEGITIMACY AMONG NATIONS (1990).

[16] If a state complies with a rule that, in the short run, operates to its disadvantage, it helps to deter other states that may be tempted to violate the same, or another, legitimate law in subsequent encounters by making itself "hostage" to the rule in question. Conversely, states that violate a law to preserve a short-term interest make it easier for other states thereafter to ignore the same, or other, legal obligations. *See* THOMAS M. FRANCK & EDWARD WEISBAND, WORD POLITICS: VERBAL STRATEGY AMONG THE SUPERPOWERS 120–48 (1971).

force have dissolved the rule's element of determinacy, so that it no longer actually "binds" states?

That, it seems, is what some American commentators have concluded. Theirs is a challenge to which response must be made, for a rule that is riddled with exceptions no longer makes a clear statement and cannot be taken as a serious predictor of state conduct. As such, it invites further violations of that and other rules. Or it generates momentum for a different norm, one that accommodates the violations and makes them the basis of a new rule. For example, some are already arguing that states that harbor terrorists or violate the rights of their own people are no longer entitled to the sovereign prerogatives that underpin Article 2(4) of the UN Charter.[17]

The perception of a rule's degree of bindingness, at any particular juncture of its history, will determine its vulnerability to this sort of displacement. That all-important degree, however, is not easily measured; certainly not simply by counting the number of violations. Violations of treaties, and of universal treaties in particular, are no substitutes for legitimate amendments. Still, laws can fall into desuetude.

What follows, hereafter, is an attempt at a nuanced inquiry into the determinacy of the rule against states' unilateral recourse to force in the wake of the interventions in Kosovo in 1999 and Iraq in 2003. Has the prohibition been battered beyond recognition, forfeiting its legitimacy as nations conclude that it lacks all determinacy? Has it lost its capacity to pull states toward consensual compliance? Have we now entered an age in which anything goes?

II. LEGITIMACY AND DETERMINACY

Let us begin by examining in somewhat greater detail the principal variable in determining the rule's degree of legitimacy. That variable is the rule's perceived determinacy. Has the prohibition on the unilateral recourse to force by states become meaningless through the response of states to scofflaw behavior?[18]

Determinacy is "that which makes [the rule's] message clear" or "transparent."[19] It is usually achieved by a rule text's explicit statement of a boundary between the permissible and the impermissible, or by the designation of a process for clarifying, in a contested instance, the meaning of a rule. In other words, a rule that is vague may still be seen as quite legitimate if its application in given, contested instances is open to a process that yields specificity. For example, I argued in my book *Recourse to Force* that the case-by-case interpretation by the Security Council of the prohibition on the use of force except in self-defense—in practice—has qualified the meaning of "armed attack" so as to include instances of imminent attack,[20] a view recently also taken by the high-level panel advising the UN secretary-general on Charter reform.[21] In practice, the rule evolves but remains determinate.

In instances like Kosovo and Iraq, where neither Yugoslavia nor Iraq had committed an armed attack such as to give automatic rise to a right to use force in self-defense, the Charter

[17] See discussion in SIMPSON, *supra* note 8, at 334–39.

[18] I realize that I have contributed to the confusion over this matter through the catchy title of my essay in this *Journal*, *Who Killed Article 2(4)?* 64 AJIL 809 (1973). The purpose of the article, of course, was not to claim that the prohibition on first use of military force was no longer binding on states but, to the contrary, to warn that, though an essential cornerstone of the postwar order, it was being progressively undermined by the conduct both of the Soviet Union and of the United States.

[19] FRANCK, *supra* note 15, at 52.

[20] THOMAS M. FRANCK, RECOURSE TO FORCE: STATE ACTION AGAINST THREATS AND ARMED ATTACKS 97–108 (2002).

[21] A More Secure World: Our Shared Responsibility, Report of the High-Level Panel on Threats, Challenges and Change, UN Doc. A/59/565, at 63, para. 188 (2004), *available at* <http://www.un.org/secureworld/report.pdf>.

designates the Security Council as the appropriate institution—the jury—for deciding, in accordance with Article 39, whether the situation has risen to the level of a "threat to the peace" that could warrant recourse to force, even in the absence of a prior armed attack. Yet, in the instance of Kosovo, NATO chose to circumvent the Council and, in the Iraqi case, the United States and Britain also chose to do so. What effect has this evasion had on the legitimacy and, thus, the compliance pull of the rules? Is there any longer a bright line between the permissible and the impermissible?

Certainly, some in the administration in Washington, and some, primarily American, scholars, have been quite vociferous in claiming that such a line between the permissible and the impermissible, whether it ever existed or not, no longer exerts any compliance pull on states.[22] They have attacked the legitimacy of the rule against recourse to force directly and, indirectly, the rule—*pacta sunt servanda*— on which all else depends in international law. They have done this in the name of humanitarian intervention and preventive measures against terrorism, both very modern issues high on almost everyone's list of concerns. These concerns, they have argued, cannot any longer be met with the old rules and processes.

Are they right?

There can be no doubt that, as a result of those recent recourses to force in Kosovo and Iraq, widespread unease can be sensed about the state of Charter-based international law applicable to war. That unease is probably even more pronounced among those of us who believe that compliance with international law is not an option but a mandate.

III. HAVE THE CHARTER RULES LOST DETERMINACY?

The all-important question of whether the Charter rules have lost determinacy can be addressed only by reference to state practice: the conduct and opinions of a world of states. Care must be taken in defining that universe of state practice. In matters of usage and perception, the U.S. government is profoundly affected by its sense of being the world's only superpower and of the prerogatives that supposedly entails. Yet the rest of the nations, some two hundred of them, may see the rules—and act on them— quite differently. For example, the UN Security Council's persistent refusal to validate the 2003 invasion of Iraq demonstrates most states' continued reliance on the Charter rules, conduct that does not conduce to any theory of their obsolescence or delegitimation.

It also matters what we count as perceptions and usages. For example, things states do not do, or which they say they are not doing, or not saying they are doing, may be as important a gauge of the rules' efficacy as what they actually do. If rule violators are highly visible, the preponderant majority of law abiders is less so. But compliant behavior should count as much as noncompliant, in determining prevalent perceptions and usages.

The behavior of the noncompliant also requires close scrutiny. Professor H. L. A. Hart, although keenly aware of the shortcomings of international law as a system of normative obligations, nevertheless acknowledged that even in this imperfect system, nations behave as if the law were binding; not, he said, by always obeying its strictures but by acknowledging a "general pressure for conformity to the rules . . . .When the rules are disregarded, it is not on the footing that they are not binding; instead efforts are made to conceal the facts."[23]

Hart thus identified another important, but hidden, indicator of a law's legitimacy: that those who violate its strictures invariably claim not to be doing so. We tend to overlook the

[22] *E.g.*, Michael J. Glennon, *Why the Security Council Failed*, FOREIGN AFF., May/June 2003, at 16.
[23] H. L. A. HART, THE CONCEPT OF LAW 214–15 (1961).

tribute paid by scofflaws to the law they are breaching. If violators defend their actions either by distorting the law's meaning, or by lying about the facts of their violation, that strategy of denial tells us something. Perhaps it tells us that even the violators think that there is some life—some bite—left in those rules.

In most instances, states that have violated Article 2(4) of the Charter have asserted their innocence either by distorting the facts to conform to the license given by Article 51 ("self-defence"), or by interpreting that license creatively. Thus, North Korea insisted after its invasion of the South in June 1950, that it had been attacked by the South.[24] That lie might not have passed the laugh test as the Northern forces swept over Seoul toward Pusan, but the very fact that Pyongyang thought it necessary to lie attests to the North's recognition that, yes, there is a norm, one that is still universally recognized as binding and that cannot simply be disregarded with impunity. Lying about facts, it may be said, is the tribute scofflaw governments pay to international legal obligations they violate.

Equally common is the tactic of distorting what the law says. When Morocco invaded the Spanish Sahara in 1975, claiming to be "defending" Rabat's "historic title"[25] against UN efforts to implement the Saharawi people's right to self-determination, neither the International Court of Justice nor the General Assembly found that justification convincing.[26] Yet, significantly, the Moroccans at least tried to place their action within the normative framework, rather than attack its legitimacy. "Fancy lawyering" of that sort, one must suppose, is another tribute paid by scofflaw governments to the legitimacy of the international system of rules. After World War II, no government, no matter how powerful or how foolish, has thought it good tactics to say openly that the law is whatever it says it is.

Is such back-handed tribute still habitually being paid? If not, we might conclude that we are, indeed, in a world without law, where violators no longer recognize the legitimacy of the law they are violating. If the law has lost its compliance pull, we would know that, first, by the willingness of at least some states to say, as they did so often in the ages before the Charter, "La loi, c'est moi."

Of course, even if a state were to proclaim itself, openly, as above the law, that alone would not delegitimate the law, although, at some point, widespread noncompliance could have that effect. The failure of one state, even a powerful one, to obey the law raises, but does not answer, questions about the popular perception of the law's continued determinacy. To address that issue, it becomes necessary to resort to a kind of legal empiricism: to ask how many states, in how many situations of disputation, currently discredit the law pertaining to the use of force in word and deed? If the practice of these openly defiant "scofflaws" begins to overwhelm the restraint of governments that habitually comply with the law, then—but only then—it might be arguable that the rules have surely lapsed into desuetude. Or if the community of states fails to register its displeasure with the law's violation in some significant fashion, it would be arguable that the norm is being allowed to lapse into meaninglessness.

A brief examination of the history of interstatal behavior since World War II and up to the 2003 invasion of Iraq quickly demonstrates not only that states never challenged the legitimacy of the law they were violating, but, even at the risk of failing the laugh test, insisted that they were acting in full compliance with it. Vietnam averred that it had been invaded by Cambodia.[27] Moscow alleged that its occupation of Afghanistan was launched at the invitation of the legitimate

[24] *North Korean Communiques*, N.Y. TIMES, June 26, 1950, at A3.

[25] Western Sahara, Advisory Opinion, 1975 ICJ REP. 12, 130 (Oct. 16) (De Castro, J., sep. op.).

[26] *Id.*, Advisory Opinion. For the concurrent view of the General Assembly, see Question of Spanish Sahara, GA Res. 3458 (XXX) (Dec. 10, 1975).

[27] ELIZABETH BECKER, WHEN THE WAR WAS OVER 355 (1986).

Afghan government.[28] The UK government insisted that weapons of mass destruction (WMDs) were deployed in Iraq, poised to attack at forty-five minutes' notice.[29] The U.S. secretary of state unwittingly presented bogus facts to justify an invasion against Iraq's caches of prohibited WMDs.

If these avowals of fact had been true, the actions of Hanoi, Moscow, London, and Washington might well have been law-compliant. Even after the U.S. government's own 9/11 Commission concluded that there was no evidence of complicity with Al Qaeda by Saddam Hussein,[30] Vice President Dick Cheney has persisted in perpetuating that myth.[31] Why? To make the U.S. resort to force seem legally justified. Deprived of the myth, the illegality stands exposed. Even after the president's own chief weapons hunter, David Kay, reported that there were no weapons of mass destruction to be found in Iraq,[32] the Bush administration will not admit that they did not exist.[33] Why? Because to admit what is obvious to almost everyone else[34] would be to admit that the invasion of Iraq was illegal.

But why should the world's sole superpower care whether it is perceived as acting illegally? Why defend a "rational choice" in tortured legal terms? Why would some prefer to live in a bubble of false information, rather than stand exposed as facilitators of what is defined as aggression under a system of international law they revile as ineffective and contrary to rational choice? It does seem that somewhere, deep in the recesses of their reasoning process, leaders in Washington harbor a grudging awareness that the rest of the world still regards the rules, however egregiously violated by a few powerful scofflaws, as legitimate and binding. More generally, the failure of many of America's closest allies to help share the burden of invading and controlling Iraq speaks of widespread support for the "old" rules.[35]

Even a cursory examination of the post-Charter historic record makes clear that, in actual practice, almost all states, almost all the time, do abide by the strictures of Articles 2(4) and 51, refraining from resolving problems they may have with other states by recourse to force. Yes, there have been flare-ups between India and Pakistan,[36] and between India and China.[37] But during the Cold War, most scofflaw behavior was skirmishing between the superpowers. Another spate of flare-ups followed the disintegration of the Soviet empire. States in the Congo Basin, too, have exhibited instability and unlawful behavior.[38] In each instance, however, and with varying degrees of success, the UN system has been enlisted in strenuous efforts to mitigate and end those violations, applying and reinforcing precisely the rules that had been violated.[39]

[28] W. Michael Reisman & James Silk, *Which Law Applies to the Afghan Conflict?* 82 AJIL 459 (1988).

[29] "The dossier . . . suggests that Iraq could deploy chemical or biological weapons within 45 minutes of an order being given." Philip Webster, Roland Watson, & Greg Hurst, *Labour MPs Split over Iraq Dossier,* TIMES (London), Sept. 25, 2002, Home News, at 1.

[30] THE 9/11 COMMISSION REPORT: FINAL REPORT OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES 334 (2004).

[31] Gloria Borger, *A Vice President Unbound,* U.S. NEWS & WORLD REP., June 28, 2004, at 34.

[32] *Ex-Inspector [David Kay] Again Says Forbidden Arms Probably Didn't Exist,* WASH. POST, Jan. 29, 2004, at A1.

[33] *Bush Stands Firmly Behind His Decision to Invade Iraq,* WASH. POST, Feb. 6, 2004, at A16.

[34] For an assertion of this obviousness, see Kofi Annan Interview (BBC News television broadcast Sept. 16, 2004), *available at* <http://news.bbc.co.uk/1/hi/world/middle_east/3661640.stm>.

[35] The Security Council has been scrupulous in its resolutions pertaining to Iraq to avoid anything that could be interpreted as a retrospective validation of the invasion.

[36] Sumathi Subbiah, Note, *Security Council Mediation and the Kashmir Dispute,* 27 B.C. INT'L & COMP. L. REV. 173 (2004).

[37] Sumit Ganguly, *India and China: Border Issues, Domestic Integration, and International Security, in* THE INDIA-CHINA RELATIONSHIP: WHAT THE UNITED STATES NEEDS TO KNOW 103 (Francine R. Frankel & Harry Harding eds., 2004).

[38] These began with the decolonization of the Belgian Congo in 1960 and the efforts of the United Nations to deal with the ensuing warfare. *Cf.* SC Res. 143 (July 14, 1960); SC Res. 169 (Nov. 24, 1961).

[39] *See* Frederic L. Kirgis, *The Security Council's First Fifty Years,* 89 AJIL 506, 532–37 (1995).

Against these highly visible instances of unlawful behavior must be set a much larger, but largely unremarked, aggregation of almost habitual compliance practice affirming the rules of the game. That so many states, so much of the time, resolve their boundary disputes by adjudication or arbitration[40] tells us the very same thing as the hapless lies of the persistent violators: that the rules against first use of force retain a high level of legitimacy in the community of states to which they are addressed.

It seems apparent to me that the normative system established by the UN Charter is not eroding. On the contrary, its legitimacy is rather consistently upheld in the rhetoric of all states and the behavior of most. The unlawful conduct of the scofflaws may be a great political problem because of the scale of the suffering it inflicts on the innocent and because of its great capacity to destabilize world order. But such aberrant behavior has not been a serious challenge to the law, because only the most extreme of its apologists openly attack the normative order or seek to replace it with any alternative set of rules. President George W. Bush's desire to make clear that the United States would act preemptively, more or less at will, whenever it thought its security threatened,[41] was not taken seriously as a legal proposition, since it was not remotely advanced as a new reciprocal right, one tenable by any nation, but, rather, in the unilateralist spirit of Thucydides' characterization of the law governing relations between Athens and little Melos during the Peloponnesian Wars: that the powerful do as they will, while the weak do as they must.[42]

Oddly, almost nothing proposed by the United States since it thus proclaimed itself the world's sole superpower has taken the form of new norms meant to govern state recourse to force, even though this is an era with complex new problems for which new rules might even be desirable. Indeed, it is remarkable that the United States, in what Andy Warhol might have called its fifteen minutes as sole superpower, has not sought to shape new rules, willfully abdicating one of the prerogatives, one would think, of superpower-dom. Instead, it has tried, even risibly, to show sometimes that it still adheres to the old rules, and at other times that it does not believe rules apply to it at all.

That does not mean, however, that no problems impinge on the continuing efficacy of norms conceived sixty years ago. They were meant to be effective in controlling the conduct of states in a world of panzer divisions. Those rules could not anticipate entirely new threats soon to be posed by weapons of mass destruction, near-instantaneous delivery systems, and substatal and transnational clashes of culture. The postwar normative order was conceived to deter established states, not shadowy transnational networks of fanatics. Thus, it is primarily obsolescence, not desuetude, that threatens the system's determinacy. If not addressed, some

[40] Boundary cases disposed of by the International Court of Justice include Frontier Dispute (Benin/Niger) (July 12, 2005); Application for Revision of the Judgment of 11 September 1992 in the Case Concerning the Land, Island and Maritime Frontier Dispute (El Salvador v. Honduras: Nicaragua intervening) (El Sal. v. Hond.) (Dec. 18, 2003); Sovereignty over Pulau Litigan and Pulau Sipadan (Indon./Malay) (Dec. 17, 2002); Land and Maritime Boundary Between Cameroon and Nigeria (Cameroon v. Nig.: Eq. Guinea intervening) (Oct. 10, 2002); Maritime Delimitation and Territorial Questions Between Qatar and Bahrain (Qatar v. Bahr.), 2001 ICJ REP. 40 (Mar. 16); Kasikili/Sedudu Island (Bots./Namib.), 1999 ICJ REP. 1045 (Dec. 13); Request for Interpretation of the Judgment of 11 June 1998 in the Case Concerning the Land and Maritime Boundary Between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (Nig. v. Cameroon), 1999 ICJ REP. 31 (Mar. 25); Territorial Dispute (Libya/Chad), 1994 ICJ REP. 6 (Feb. 13); Maritime Delimitation in the Area Between Greenland and Jan Mayen (Den. v. Nor.), 1993 ICJ REP. 38 (June 14); Land, Island and Maritime Frontier Dispute (El Sal./Hond.: Nicar. intervening), 1992 ICJ REP. 351 (Sept. 11); Arbitral Award of 31 July 1989 (Guinea-Bissau v. Sen.), 1991 ICJ REP. 53 (Nov. 12). The opinions of the Court are available at its Web site, <http://www.icj-cij.org>.

[41] THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA, pt. V (Sept. 17, 2002), *available at* <http://www.whitehouse.gov/nsc/nss.pdf>.

[42] THUCYDIDES, THE HISTORY OF THE PELOPONNESIAN WAR (Richard Crawley trans., Dutton 1950) (412 B.C.).

of these new problems, in time, will surely undermine the law's legitimacy. Specifically, these new challenges fall into two categories: (1) those pertaining to humanitarian intervention where the Security Council cannot respond because of the veto; and (2) those pertaining to the right of self-defense against an anticipated armed attack.

It is these problems of changing circumstance, not the actions or jurisprudential theories of a few scofflaws, that challenge the continuing legitimacy of international law pertaining to the use of force by states.

IV. HUMANITARIAN INTERVENTION

The UN Charter was written in the twilight of a great war and for the primary purpose of saving succeeding generations from another such scourge. The rules make no provision for using military force to save civilian populations from genocide or violations of human rights, let alone civil strife, starvation, or environmental degradation. Indeed, the text of Article 2(7) precludes any such "intervention" unless the situation has risen to the level of a threat to international peace and security. After all, the Charter originated in an era when, at Nuremberg, the Nazi master plan for aggressive war was the focus for prosecution of the indicted war criminals, while "crimes against humanity" received little attention from prosecutors or judges and applied only to acts that occurred after the outbreak of war.[43]

In the subsequent practice of UN organs, however, this high legal threshold has gradually been lowered and in 1999 Secretary-General Kofi Annan felt emboldened to tell the General Assembly that gross violations of human rights—rights now codified in universal treaties—could no longer be regarded as purely domestic matters, beyond the enforcement powers of the UN system. He called on states to "forge unity behind the principle that massive and systematic violations of human rights—wherever they may take place—should not be allowed to stand" and that "[s]tate sovereignty, in its most basic sense, is being redefined by the forces of globalization and international cooperation."[44] From the Congolese/Katangese wars of 1960–1962, through UN interventions in Somalia, Haiti, and Albania,[45] it has become a commonplace that the international system may lawfully intervene in situations of cataclysmic civil strife and other massive violations of human rights, with or without the consent of the government of the place where the violations are occurring.

[43] Thus, the charge of "common plan or conspiracy" was linked only to the charge of waging aggressive war, i.e., after 1939. TELFORD TAYLOR, THE ANATOMY OF THE NUREMBERG TRIALS: A PERSONAL MEMOIR 75–76 (1992); Robert H. Jackson, Statement at London Conference for the Preparation of the Trial (July 23, 1945), *quoted in* MICHAEL R. MARRUS, THE NUREMBERG WAR CRIMES TRIAL 1945–46: A DOCUMENTARY HISTORY 45–46 (1997). Although the Nuremberg Tribunal was assigned jurisdiction over "crimes against humanity," nevertheless

> the Allies were uncomfortable with the ramifications that this might have with respect to the treatment of minorities within their own countries, not to mention their colonies. For this reason, they insisted that crimes against humanity could only be committed if they were associated with one of the other crimes within the Nuremberg Tribunal's jurisdiction, that is, war crimes and crimes against peace. In effect, they had imposed a requirement of *nexus*, as it is known, between crimes against humanity and international armed conflict.

WILLIAM A. SCHABAS, AN INTRODUCTION TO THE INTERNATIONAL CRIMINAL COURT 42 (2d ed. 2004) (footnote omitted). The result was that crimes against the Jews of Germany were off limits.

[44] Secretary-General Presents His Annual Report to the General Assembly, UN Press Release SG/SM/7136, GA/9596 (Sept. 20, 1999) (text of address by Kofi Annan).

[45] SC Res. 143 & 169, *supra* note 38 (Congo); SC Res. 794 (Dec. 3, 1992) & 923 (May 31, 1994) (Somalia); SC Res. 1529 (Feb. 29, 2004) (Haiti); SC Res. 1101 (Mar. 28, 1997) (Albania).

Thus, the rules have adapted. Because they have done so quite successfully, the rules, even while evolving, have retained their determinacy. A dictator who tries to exterminate a part of his population knows that Article 2(7) cannot alone save him from intervention and punitive measures. Black-letter texts do not become less determinate when they acquire a penumbra of adaptive practice that is widely understood and preserves the rules' legitimacy in changing circumstances.

What, then, is the problem?

It is twofold.

The first problem is that efforts by the system to rescue an affected population can be stymied by the veto, or the threat of a veto, used unconscionably by any of the five permanent members. That is what happened as the paralyzed Security Council stood by during the planned extermination of eight hundred thousand Tutsi in Rwanda.[46] That is what, it is believed, would have happened in Kosovo had NATO not acted unlawfully, in the face of a threatened veto preventing forceful measures against the perpetrators.

The second problem is that threatened populations may not be saved in time because of a sort of "rescue fatigue" among the principal donors of personnel, arms, and money.

Both of these problems—the veto and rescue fatigue—are more political than legal. But the search for solutions seems to be leading toward an institutional transformation with important legal implications: a sort of regionalization of humanitarian rescue. When the Economic Community of West African States stepped in to intervene forcibly in civil wars wracking Liberia and Sierra Leone, the Security Council endorsed those actions, retroactively.[47] Is that the procedural rule evolving out of state practice? It has been argued that the Security Council, in 1999, similarly gave post hoc approval to NATO's intervention on behalf of the endangered Kosovars.[48] The new Constitutive Act of the African Union, of July 11, 2000, formally prescribes procedures for regional interventions in humanitarian crises by members of the region, whether or not that action has been approved by the United Nations.[49] But such a regional response does not strictly accord with Article 53 of the UN Charter, which requires prior approval by the Security Council before a regional organization initiates the use of force. One suggestion advanced for bridging this discrepancy might be for the General Assembly to substitute for the veto-prone Security Council in approving humanitarian interventions by regional organizations.

While the evolution of this sort of regionalism may presage a revised system of norms pertaining to humanitarian rescue, one more responsive to both the problem of the veto and rescue fatigue,[50] these problems cannot entirely be overcome by devolving more authority to the world's regions. There are several reasons for caution. Some of the most crisis-prone regions have no—or only underdeveloped and underfunded—capabilities. In other instances, the regional organization is but little trusted by minorities or governments in that part of the world.

Rather, thought needs to be given to ways to reform the veto itself, so that the rescue of endangered populations cannot be prevented at the whim of one or two Council members.

[46] An account of the futile effort in the Security Council to prevent or mitigate this crisis is in 1995 UN Y.B. 281–317, UN Sales No. E.95.I.50.

[47] SC Res. 1497 (Aug. 1, 2003) (Liberia); SC Res. 1315 (Aug. 14, 2000) (Sierra Leone).

[48] This can be inferred from Resolution 1244 (June 10, 1999), which welcomed the acceptance by the Federal Republic of Yugoslavia of the settlement imposed upon it as a consequence of NATO's recourse to force. FRANCK, *supra* note 20, at 163–71.

[49] Article 4(h) of the Constitutive Act stipulates "the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity," when such intervention is authorized by two-thirds of the members. Constitutive Act of the African Union, July 11, 2002, Art. 4(h), *available at* <http://www.africa-union.org>.

[50] *See* James E. Hickey Jr., *Challenges to Security Council Monopoly Power over the Use of Force in Regional Enforcement Actions: The Case of Regional Organizations*, 10 IUS GENTIUM 75 (2004).

This might be done by a side agreement between the five permanent members, or as many as are willing, or even by unilateral declarations by veto-wielding states, stipulating that, once the Security Council has determined that a threat to the peace exists and has set out the required remedial measures, the veto will not be used to prevent the taking of follow-up enforcement measures. One effect of such self-restraint would be to put any offender on notice that non-compliance with Security Council orders would be likely to have serious consequences.

Whether or not all, or at first only some, of the permanent members formally agree to such an updating of the practices, the rules are changing. Since Kosovo, when a large preponderance of states are convinced that a muscular rescue is necessary and urgent, they clearly will not much cavil at the taking of action by a coalition of the willing whose bona fides are demonstrable and generally acknowledged. Change may occur through negotiated agreement or by patterns of conduct that skirt the rules. Either is likely, eventually, to achieve normative reform. The International Court recognized this self-rectifying process in the *Nicaragua* case, when it pointed out:

> The significance for the Court of cases of State conduct prima facie inconsistent with the principle of non-intervention lies in the nature of the ground offered as justification. Reliance by a State on a novel right or an unprecedented exception to the principle might, if shared in principle by other States, tend towards a modification of customary international law.[51]

Law's legitimacy is not preserved by refusal to entertain rule change, and change can come about in various ways. As long as the process results in common acknowledgment of the reformed rule's universal application and of its specific content, change through practice will not undermine a rule's legitimacy.

V. SELF-DEFENSE

The same may be said with regard to situations where force is necessary to deflect an impending attack on one state by another, or by a terrorist group. The law is adapting, it is bound to adapt, and its legitimacy will be enhanced thereby.

The strict letter of the Charter (Article 51) limits the right of self-defense to situations in which an armed attack has already occurred and where the attacker is another state. Such a law might be clear, but it is nonsense in the contemporary context. Because this deficiency is widely recognized, the principal organs of the UN system have begun to improvise contextually.

Have they done so in a way that saves the determinacy, hence the legitimacy, of the rules? I believe that they have.

Article 51, by speaking of the "inherent right of self-defence," incorporates customary law notions of anticipatory self-defense spelled out in the 1837 *Caroline* memorandum of Secretary of State Daniel Webster, a right arising when the "necessity of . . . self-defence is instant, overwhelming, and leaving no choice of means, and no moment for deliberation."[52]

As determined by whom? Aye, there's the rub.

The problem does not lie with updating the right of self-defense to permit action in anticipation of an imminent attack. Rather, it lies with leaving every state free to determine whether

[51] Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), Merits, 1986 ICJ REP. 14, 109, para. 207 (June 27).

[52] Letter from Daniel Webster, U.S. secretary of state, to Henry Fox, British minister in Washington (Apr. 24, 1841), *quoted in* 2 JOHN BASSETT MOORE, A DIGEST OF INTERNATIONAL LAW 412 (1906), *and in* 29 BRIT. & FOREIGN ST. PAPERS 1840–1841, at 1138 (1857). For a discussion, see 1 OPPENHEIM'S INTERNATIONAL LAW 420–27 (Robert Jennings & Arthur Watts eds., 9th ed. 1992).

it is in such imminent danger as to be free to use anticipatory force before being attacked.[53] In legal terms, if Article 51 of the Charter is to be read as permitting state recourse to force in self-defense not just against an actual, but also against an anticipated, attack, then—unless the Article 2(4) constraint on first use is to become wholly meaningless—the decision whether such an attack is imminent cannot be left solely to each state.

Nevertheless, in the weeks before the 2003 invasion of Iraq, it was the position of the United States and the United Kingdom that they were free in law to determine for themselves whether Iraq was in material breach of prior Security Council resolutions ending the state of hostilities authorized by the Council in Resolution 678 of 1990, or whether Iraq's defiance of the regime imposed on it by Council Resolution 687 in 1991 had risen to the threshold that would justify preemptive military action under an expanded doctrine of self-defense, without any jurying of the claim of necessity. In the words of the British attorney general, even though the Security Council may "consider the matter before any action is taken," regardless of what the Council does or does not decide, "further [military] action can be taken without a new resolution of the Council."[54]

The problem, then, does not lie with formulating a norm. It lies with the process for implementing it: who, or what institution, what judge or jury, should decide whether the norm's requisites for preemptive action have been met. President Bush, in his 2004 State of the Union address to Congress, reduced the American position to the nakedly unilateral: We will never seek anyone's permission, he said, to defend the national self-interest of the United States.[55]

If that is indeed the administration's considered position, then the president will have withdrawn America from the community of states operating under international law. For that community is constituted not only by its substantive rules, but also by those institutional processes that implement the rules. The more indeterminate a norm, the more essential the process by which, in practice, the norm can be made more specific. Rules that each member of a community is free to interpret for itself, without fear of definitive contradiction, are truly rules lacking in determinacy, for they leave each member free to assert that "the rules are whatever I say they are." They then have no objective content whatsoever.

The problem that the invasion of Iraq has brought to the fore is not primarily one of defining or reforming a right to anticipatory, preemptive, or preventive self-defense in the era of WMDs, daunting as such a project may be. The problem is that, even if such a commonly acceptable right could be formulated, by treaty or by practice, it would be wholly illegitimate so long as some nations insisted on the right to interpret and apply the new rule unilaterally.

On a more practical level, it is clear that few nations would be interested in negotiating such a normative reform unless all states were committed to subordinating themselves to a credible institutional process for determining when the right is properly invoked.

Repeatedly, just before and after the invasion of Iraq, U.S. leaders asserted that the United Nations had failed because, despite Iraq's repeated defiance of the disarmament requirements imposed on it by Resolutions 687 and 1441, the Security Council had failed to pass that second

[53] The difference, in this respect, between imminent attack and latent danger was amply evident to British foreign secretary Lord Castlereagh who, in 1820, wrote: "We shall be found in our place when actual Danger menaces the System of Europe, but this Country cannot and will not act upon abstract and speculative Principles of Precaution." Castlereagh's State Paper of 1820, Minute of Cabinet (May 5, 1820), *quoted in* SIMPSON, *supra* note 8, at 348.

[54] Lord Goldsmith, Attorney General Clarifies Legal Basis for Use of Force Against Iraq, para. 11 (Mar. 18, 2003), *at* <http://www.fco.gov.uk> (statement in answer to a parliamentary question).

[55] George W. Bush, Address Before a Joint Session of the Congress on the State of the Union (Jan. 28, 2003), 39 WEEKLY COMP. PRES. DOC. 109 (Feb. 3, 2003).

resolution authorizing recourse to force.[56] But the system had not failed. Rather, two-thirds of the Council's membership had concluded, quite reasonably, that the danger of a WMD attack by, or with the connivance of, Iraq could have been prevented far better by strengthening the UN inspectors and by positioning more troops—preferably the ones already in the gulf region in preparation for an invasion—in nearby Afghanistan to deter further defiance by Saddam Hussein. At the time, this was a perfectly plausible alternative strategy for dealing with the danger posed by Iraq. In retrospect, it was clearly the better, the right, strategy, one that would have saved tens of thousands of lives and hundreds of billions of dollars while achieving the commonly desired result. It might also have enhanced the effectiveness of the UN-authorized campaign against Al Qaeda in Afghanistan.

Sadly, President Bush chose instead to take a road leading away from community and law. He said, "[W]e will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting preemptively . . . ."[57] It could be replied, of course, that there is nothing really new about that claim. Arguably, as a political policy, each government has always retained, in its diplomatic arsenal, the big stick necessary to pursue its essential self-interest against any other government that is inferior to it militarily. That, however, is not necessarily the conclusion this administration wants anyone to draw. It is very unlikely that Washington is eager to have its new doctrine adopted by New Delhi and Beijing, let alone Iran and North Korea. Yet, inconveniently at such moments as this, law is all about the gander's right to the goose's sauce.

Lawyers sympathetic to the aims of the *National Security Strategy* are perfectly aware of this problem. Judge Abraham Sofaer, the legal adviser of the Department of State under President George H. W. Bush, poses the problem with characteristic clarity: "Can the concept of self-defence accommodate a role for pre-emption that satisfies the need of leaders to protect their people, without providing a ready basis for states to use pre-emption as an excuse for aggression?"[58] The answer is that there might be such a legal concept, but it certainly is not one that is on offer by the present U.S. administration.

Such a policy may seem to extract America from the rule of law's constraints, but at a high price to the national interest. This is fantasy realism, at best. It fails to take into account the opportunity costs of not acting multilaterally, that is, not acting in accordance with the rules as generally perceived. Failing to make that reckoning does significant harm to American and British interests. But it will not, thereby, have caused the multilateral system of rules to become indeterminate, or have undermined its legitimacy. It will only have made it much more difficult for Washington to protect its far-flung global interests.

As for the state of the law of self-defense, it seems to come to this: although Article 51 of the Charter literally permits a state to use force only after it has been attacked, both common sense and practice have prevented such a *reductio ad absurdum.* In the words of the high-level panel reporting to the secretary-general on UN reform in 2005, "a threatened state" may "take military action as long as the threatened attack is imminent, no other means would deflect it and the action is proportionate."[59] This view was endorsed by the secretary-general.[60] In the practice of the Organization, it has long been tacitly recognized that a nation preparing a crippling

[56] William H. Taft IV & Todd F. Buchwald, *Preemption, Iraq, and International Law,* 97 AJIL 557 (2003).

[57] THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA, pt. III, at 6 (Sept. 17, 2002), *available at* <http://www.whitehouse.gov/nsc/nss.pdf>.

[58] Abraham D. Sofaer, *On the Necessity of Pre-emption,* 14 EUR. J. INT'L L. 209, 211 (2003).

[59] A More Secure World, *supra* note 21, at 54, para. 188.

[60] "Imminent threats are fully covered by Article 51 . . . ." In Larger Freedom: Towards Development, Security and Human Rights for All, Report of the Secretary-General, UN Doc. A/59/2005, para. 124, *available at* <http://www.un.org/largerfreedom/contents.htm>.

first strike against another may be treated as an aggressor before it has an opportunity to strike.[61] It may be dealt with in accordance with the right, expanded by the practice of states, to use force in self-defense.

However, this right to act without reference to the Security Council is limited to instances of actual or imminent attack. The right does not accrue when a state merely claims that it may eventually be the victim of a potential aggressor. Even in the era of weapons of mass destruction, such a claim to use forceful measures in preventive self-defense must still be made to the satisfaction of the Security Council, exercising its authority to sanction the use of force to prevent threats to the peace under the terms of Article 39. A state that believes itself threatened by the long-term hostile intentions of another, before resorting to preventive action, must demonstrate the actuality of that threat to the satisfaction of the appropriate international institution. Without some jurying or adjudicative process, the right of preventive action would otherwise become an unbridled license for all states to practice aggression. That would be irreconcilable with the purposes of the Charter and there is no evidence whatsoever that the community of states is ready for such a change in the norms of the system.

The high-level panel has thus rendered a real service in drawing a distinction between an imminent threat, as to which states may take proportionate preemptive action when there remains no viable alternative, and what it described as nonimminent or nonproximate threats, which may still be very serious and as to which action may, indeed, be highly desirable but must be fully justified by the claimant before the Security Council acting as a global jury.[62]

To be sure, the Security Council, let alone other institutions of the international system, is quite an imperfect analogue to the jury, although the jury is, itself, a notoriously imperfect system, one wanting except in comparison to the available alternatives. The Security Council is in need of reform, particularly in the context of its role in collective measures pertaining to humanitarian crises and anticipatory measures to preempt terrorist attacks. With respect to both, veto practices cry out for reform. If the Council is to be vested, by state practice, with performing the key jurying function in determining when states have the right to use force in anticipatory self-defense or to avert a humanitarian disaster, then the permanent members must develop a pattern of persistent self-restraint in their recourse to the veto.

The call for reform is not an instance of hollow Panglossian optimism. There are encouraging signs that the system is capable of reforming its rules to meet new crises, even if the time for reform of the veto has not yet come. An example is the Security Council's recent response to the new problem of self-defense against terrorist networks that are not states and operate across national boundaries. The Charter did not anticipate this problem. Yet, on September 12, 2001, in Resolution 1368, the Security Council made clear the responsibility and liability of those who are "sponsors of . . . terrorist attacks" or engage in "supporting or harbouring the perpetrators." Against them, the right of individual and collective self-defense was deemed to be as applicable as if they were states.[63]

Again, however, it is important to note that the right to act in self-defense against nonstatal entities and against states that were harboring aggressors although not themselves engaging in the aggression was judged to be applicable by the Security Council; it was not something simply asserted

[61] An example is Israel's attack on Egypt in 1967, after the Egyptian government unilaterally had ordered the withdrawal of the United Nations Emergency Force, which since 1956 had served as a buffer between the two enemies, and had redeployed its own forces to occupy the buffer zone in threatening posture, while declaring the closure to Israeli shipping of the Gulf of Aqaba and the Strait of Tiran. 1967 UN Y.B. 164–68.

[62] A More Secure World, *supra* note 21, at 54–55, para. 189.

[63] Resolutions 1368 (Sept. 12, 2001) and 1373 (Sept. 28, 2001), respectively, recognize the right to take individual and collective measures in the aftermath of the attack by Al Qaeda on the United States.

unilaterally by Washington. Indeed, the United States wanted this approval before resorting to force because it recognized the many benefits of multilateralizing its response in the war on terrorism.

In sum, the principal organs of the United Nations have understood the need to adapt the law pertaining to the right of self-defense in the light of changing circumstances and, to a remarkable extent, they have risen to that challenge, as their members have creatively interpreted rules that otherwise, without reform, might simply have become obsolete. What the practice has refused to accommodate, however, is the insistence of the United States and the United Kingdom that they, alone, be free to interpret the broadened rules in accordance solely with their understanding of their national interests.

This is as it must be. The Charter system consists of two strands: the substantive and the procedural. As circumstances, priorities, and even universal values change, the substantive norms must adapt. The procedures, too, from time to time need pragmatic adaptation. One aspect of the procedures, however, must not adapt. The basic procedural notion of the Charter is that every nation, before taking military action, except in self-defense against an imminent or actual armed attack, must first demonstrate to its peers that, in the terms of Charter Article 39, there exists an actual threat to the peace. If, for example, a demonstrably malevolent government is on the path to developing actual WMDs, it is well within the power of the Security Council to take action without waiting for the threat to become imminent. That determination, however, is reserved to the judgment of the Council acting as jury, and not to individual states. Without that central procedural safeguard, international relations cannot be said to have been brought within the ambit of the rule of law.

Why? Because every recourse to force, in the modern world of global interdependence, always affects the condition and well-being of many more states than merely the initiator and the object of a military action. It affects neighboring states and their populations, the environment, commerce, and, in particular, the integrity of the international system of rules and procedures in which everyone has a stake.

VI. CONCLUSION

The law pertaining to recourse to force is under stress from the confluence of two different tendencies. One tendency is to overestimate the capacity of naked power to achieve recognition of its own legitimacy by ignoring the law. The other is to underestimate the capacity of law to adapt to new circumstances while retaining the determinacy that underpins its perceived legitimacy. The conclusion, put with brevity at some cost to nuance, is that law can adapt through practice, that violations of law may be one form of practice that can have the effect of changing it, but that violations of the law, like other forms of practice, have the potential only to change the law, not to repeal it; and practice changes the law only to the extent that the change is generally approved and applied by the international community of states. Thus, violations of the law remain violations of the law until they can be described as amendments-in-practice. That the law is "amendable" in this way is not a sign of the law's weakness, but of its resilience. Had the Constitution of the United States not been capable of adaptation in this way, we would have no capacity to enter into undeclared wars or international agreements ratified by simple majorities of both houses of Congress. Whatever one might think of such adaptations, they are not a license to ignore the law.

Then why are we seeing the phenomenon of a burgeoning literature on the "limits" of international law? One aspect of this phenomenon is the tendency of growing numbers of "realists" to believe that only calculations of power and self-interest, but not much normativity, enter into states' "rational choice" in determining their actions. This notion can be shown to be

wrong, both by empirically studying the prevalence of rule compliance by states even when that does not promote their preferred outcome, and also by examining the way the relatively small number of scofflaw states fervently pretend to be rule compliant.

Against the siren song of a world order created through the "rational choice" of a single superpower must be set the "rational choice" represented by adherence to the rule of law. This is not a form of moral philosophy but a hard-headed realization of the limits of power and of law's potential for serving everyone's long-term self-interest. Advocates of a "rational choice" that is law regarding can point to the self-repairing tendency of the rules to adapt and accommodate changing circumstances. They can point out that a breach of the law, if made with the approval or acquiescence of the preponderance of states, may serve not only the national interest but also that of the law itself, by effecting a needed modification. But that is quite different from the proposition that the law does not matter and neither does the *opinio juris* of other states.

Adherence to law, when seen to legitimate action, serves the national interest because it pulls states to voluntary compliance. If the Iraqi invasion had been perceived as legitimate, as was the 1991 military action to liberate Kuwait, America would not still be out there, virtually alone, bearing the brunt of the burdens, undermining its military capability, and sending its economy into turbulent danger. That, surely, should have been relevant to "rational choice."

Rational choice, for American policymakers, must mean taking international law seriously, if only because, overwhelmingly, most other states, their leaders, and scholars of international law seem tenaciously inclined to regard international law that way. It is thus rational to presume that any American endeavors undertaken to advance the national interest but requiring the cooperation of other nations—and which ones do not, these days?—should be undertaken in compliance with the basic legal rules to which most states still adhere and which the United States itself has ratified.[64]

That this view is now being challenged in America, by both our leaders and our fellow academics, should serve as a salubrious stimulant to the rest of us. Among American legal scholars, even those with contemporary experience at the higher echelons of government (during both Democratic and Republican administrations), the majority impetus is, still, to defend the importance of international law, not least as advancing the national self-interest.

In practice, the difference between the defenders and the challengers of law's empire is neither about the importance of "rational choice" nor about the primacy of the national interest in determining compliance with international law. Rather, it is between a longer view of national interest and a narrower, more immediate approach to interest gratification. Notably, both long-term and short-term approaches have an equal claim to be operating within a theory of rational choice. The former, however, takes fully into account the power of legitimacy, while the latter focuses only on the legitimacy of power.

[64] This view was best (and surprisingly) expressed recently by Prime Minister Tony Blair: "The best defence of our security lies in the spread of our values. But we cannot advance these values except within a framework that recognises their universality. If it is a global threat, it needs a global response, based on global rules." *Full Text: Tony Blair's Speech*, GUARDIAN UNLIMITED, Mar. 5, 2004, *available at* <http://politics.guardian.co.uk/iraq/story/0,12956,1162991,00.html#article_continue>.

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"Who Needs Reforming the Most- the UN or its Members?"

Dr. Hans Corell

Ambassador, Former Under-Secretary-General for Legal Affairs
and the Legal Counsel of the United Nations (Sweden)

THOMAS JEFFERSON SCHOOL OF LAW

AND

UNIVERSITY OF CALIFORNIA AT SAN DIEGO

Centennial Regional Meeting

of the American Society of International Law

Monthly Meeting

of the San Diego County Bar Association International Law Section

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Address by

Dr Hans Corell
Ambassador
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14-16 November 2006
San Diego, California

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Directors Anthony Valladolid and Elyse Morris,

Professor Bill Slomanson, representing the American Society of International Law,

Ms. Michelle Graham, Chair of the International Law Section of the San Diego County Bar Association,

Distinguished members of the Faculty and of the Bar,

Colleagues, students, friends,

First of all, allow me to thank you for inviting me to deliver this address. And special thanks to Professor Slomanson, who took the initiative and who organized my visit to this wonderful city of San Diego.

Over the years, I have had the privilege of addressing many different audiences. To speak to audiences where there are students present and to participate in discussions with them is always a challenge. Such events are important. Students represent the new generation. Who knows, among you might very well be some of the leading politicians, scientists, artists, businessmen, lawyers and civil servants of the next generation.

My message today concerns matters of great consequence – and I must be frank. Otherwise I would compromise my "integrity in the sense of respect for law and respect for truth". The words quoted are from a famous speech on the duties of the international civil servant by Dag Hammarskjöld, Secretary-General of the United Nations 1953-1961.[1]

I should also make clear that I retired from public service – 42 years in all – in 2004. I am presently a consultant at Sweden's largest law firm Mannheimer Swartling.[2] Therefore, I speak in my personal capacity only.

As always, you should listen with a critical mind. And I welcome critical questions. But, hopefully, I will be able to convince you through the strength of the arguments. I also hope that at least some among you will never forget what I have to say today. From my own experience as a student I recall that there were those moments when somebody said something that would forever etch itself into my memory.

The title of my address is: *Who Needs Reforming the Most – the UN or its Members?*

The formulation is not chosen just to provoke. The intention is that it should convey a message that reflects the realities behind the criticism that is often directed against the United Nations.

In my presentation I will make three main points:

- First, that the United Nations is an indispensable Organization for the maintenance of international peace and security in an increasingly globalized world;

- Second, that the United Nations could certainly do better, but that much of the criticism of the Organization should be directed at its Members; and

- Third, since I am addressing an American audience, that the United States carries a heavy responsibility for the present shortcomings of the Organization.

In a few concluding remarks I will attempt to put all this in a more general global perspective.

- **The United Nations is an indispensable Organization for the maintenance of international peace and security in an increasingly globalized world**

Let us first look at the United Nations as an organization. Since we are in California, it is natural to recall the fact that the UN was founded at a conference in San Francisco in 1945. We do not have time to look into the details of this process today. Many books have been written about it. One of the most recent books, which I can recommend, is by Stephen C. Schlesinger. [3] No doubt you are aware that the United States of America was the major engineer behind the formation of the United Nations.

"Determined to save succeeding generations from the scourge of war", the peoples of the United Nations adopted a Charter. It entered into force on 24 October 1945 and lays down certain purposes and principles.[4]

The purposes, which can be found in Article 1, are to maintain international peace and security; to develop friendly relations among nations; to achieve international cooperation in solving international problems, and to be a centre for harmonizing the actions of nations in the attainment of these common ends.

In Article 2 the Members of the UN pledge to act in accordance with a number of principles. Among the most prominent are: the sovereign equality of all its Members; the pledge to fulfill in good faith the obligations laid down in the Charter; that they shall settle their international disputes by peaceful means; and that they shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state.

Surely, the Organization should be criticized for not being able to fulfill all these goals. As a matter of fact, during the Cold War, the United Nations was not functioning in the way the framers of the Charter had intended. But when the Berlin Wall came down in 1989, the situation suddenly changed.

The Security Council, in particular, was able to act in a manner that was completely different from what had been the case during the previous years. The initial unity in the early 1990's in the handling of the crises in the former Yugoslavia and in the Gulf region testifies to this.

However, this unity quickly vanished. Among other things, the Organization must be criticized for failing to address the situation in Rwanda in 1994, in Kosovo in 1999, and, presently, in the Darfur province of the Sudan.

The inability to address promptly and impartially the situation in the Middle East this summer is another case in point. Certainly, the efforts by states to help out must be recognized. But what happened in the Middle East this summer is the result of a situation that has been allowed to develop over many years. We are reaping the harvest of the inability of major players on the international arena to address it.

Furthermore, the question of personal criminal responsibility has been raised in the past in relation to atrocities committed in the former Yugoslavia, Rwanda, Sierra Leone and Cambodia and was again emphasized by the Security Council in June this year.[5] An International Criminal Court has been established. But who talks about taking effective measures to bring to justice those responsible for the crimes that obviously have been committed by both sides across the Blue Line and elsewhere in the Middle East this summer?

Taking a closer look at the UN we should, however, not be too critical. The Organization has actually done much good. Many peacekeeping operations have been successful, and other efforts by the United Nations have alleviated hardships in many parts of the world.

We must also not forget that the UN is part of the United Nations System,[6] which is an impressive group of agencies and programmes that are involved in almost every kind of human activity, be it humanitarian assistance through the World Food Programme, health care under WHO, childcare by UNICEF, civil aviation through ICAO, postal and telecommunications under the auspices of UPU and ITU, just to mention a few.

For us present here today it is natural to look at the legal field. One of the functions of the United Nations General Assembly is to initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification.[7] Over the years, an impressive body of law has been developed under the auspices of the United Nations. The actors are mainly the International Law Commission, the United Nations Commission on International Trade Law (UNCITRAL) and the Sixth (Legal) Committee of the General Assembly.

But also other actors should be mentioned, e.g. the Commission on Human Rights[8] and the Third Committee of the General Assembly, as well as numerous conferences organized under UN auspices.[9]

As I said when I bid farewell to the United Nations in 2004,[10] the impressive body of international law that we now have developed together is a common heritage that can be handed down to coming generations. In particular, the achievements over of the past 10-15 years have been remarkable.

Landmark events, to mention but a few, include the entry into force of the United Nations Convention on the Law of the Sea in 1994 and the establishment of its three institutions, including the International Tribunal for the Law of the Sea; the establishment of the international criminal tribunals for the former Yugoslavia and Rwanda in 1993 and 1994; the negotiation of the Rome Statute of the International Criminal Court in 1998, and its entry into force in 2002; the strides taken in the field of international commercial law, including e-commerce, etc.

It goes without saying that the United Nations has a very important role to play in this field also in the future. However, much more focus should be on the implementation of this body of law.

In September 2005, the General Assembly adopted the so-called Summit resolution. In this resolution Member States recommitted themselves to actively protect and promote all human rights, the rule of law and democracy.[11]

Also the Security Council has shown activity here. On 22 June this year, the Council held a day-long open debate on the Council's unique role in promoting and strengthening the rule of law in international affairs. A statement by the President of the Council adopted by this body on the same day – a so-called Presidential Statement – commences:[12]

> "The Security Council reaffirms its commitment to the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world."

Obviously, states must now live up to these commitments. In my view, much more attention should be given to the rule of law at the national and international level, in particular in view of the challenges ahead. I will revert to this in my concluding remarks.

But even if the UN stands to be criticized, the question should be put: Where would the world be today if there was no United Nations?

- **The United Nations could certainly do better but much of the criticism of the Organization should be directed at its Members**

Let us now look at the question of UN reform and the criticism against the Organization.

Over the last few years there has been an intense debate on how to reform the United Nations. Upon taking office in 1997, the present Secretary-General Kofi Annan started reforming the Secretariat. Several steps have been taken after that, including in

accordance with a resolution adopted by the General Assembly in September 2005.[13] This resolution was based on a report by the Secretary-General – *In larger freedom: towards development, security and human rights for all* – published in March 2005. [14]

Among the most prominent reforms lately could be mentioned the establishment of the Peacebuilding Commission in June 2006 and the reform of the Human Rights Commission, which is now transformed into the Human Rights Council, operating under different rules.[15]

The latest development in UN reform appears in General Assembly resolution A/RES/60/283, which is based on a report by the Secretary-General – *Investing in the United Nations: for a stronger Organization worldwide: detailed report* – presented in March 2006.[16]

As every organization, the United Nations must be subject to constant reform. And it can always be argued that it could do better. But it is important to keep in mind that the United Nations consists of six main bodies. One of these bodies is the Secretariat with the Secretary General at its head as the Organization's chief administrative officer.[17]

Apart from the International Court of Justice, the other main bodies are composed of Member States. Most prominent among them is the General Assembly, in which every Member is entitled to participate. Most powerful is the Security Council with its fifteen members, of which five are permanent.

So, therefore, let us now look at the Members of the United Nations – 192 in all. There are presently some 120 representative democracies in the world. The remaining states represent various stages on a scale where you would find right out dictatorships on one end and countries in transition to democracy on the other. The U.S. administration has taken upon itself to name some of the UN Members "rogue states".

Interestingly, the Charter still contains the so-called "enemy clauses". The enemies are not mentioned by name, but everybody knows who the post World War II "enemies" are: Germany, Italy and Japan. These three states are today among the warmest supporters of the United Nations, and together they contribute more than 34 per cent of the UN budget!

This is an excellent example of the dynamics within the United Nations. Next time the UN Charter will be opened for amendments, the "enemy clauses" will disappear. This is already agreed. Somebody suggested to me that the clauses should be substituted with clauses on "noncompliant states". Unfortunately, there are quite a few candidates for this denomination.

So, when you criticize the UN, it is important to correctly identify the entity within the Organization that should be criticized in a particular case. Let me illustrate by referring to the Oil-for-Food Program for Iraq (OFFP).

The initiator of the OFFP was not the Secretary-General or the Secretariat as the critics sometimes suggest. The basis of the OFFP was Security Council resolution 986 (1995). Entrusted with the task of negotiating the Memorandum of Understanding that governed the execution of the OFFP – signed on 20 May 1996 – I often asked myself whether the Council really understood what an extraordinarily difficult task they had laid upon the Secretary-General and the Secretariat.

What should be noted in particular is that, at least at times, there were different opinions among the members of the Council about the manner in which the sanctions against Iraq should be implemented. At the same time, the OFFP allowed for circumvention. There is talk of "scandal".

In my opinion, the investigations show that the Secretariat could have done better.[18] Furthermore, it is unacceptable that three UN officials are suspected or have been convicted of criminal acts relating to the OFFP. That is three too many! But do these findings amount to a "scandal"? And do they warrant the vicious attacks on the Secretary-General's person that have occurred? I think not!

What is always lost in this context is that the OFFP actually fed a population of some 25 million people for seven years. Its turnover was 65 billion U.S. dollars!

Furthermore, those who are so eager to talk in terms of "scandal" should look at the Security Council and ask why the Council did not want to discuss the reports from the Secretariat about suspicions that the OFFP was circumvented and that Saddam Hussein was lining his pockets. Or they should put the states and enterprises against the wall – those that are suspected of having acted in cahoots with Saddam Hussein.

We should also ask where the remaining funds in the Oil-for-Food Account went when the OFFP was terminated.[19] This sum amounted to some 8 billion U.S. dollars. In accordance with a decision by the Security Council, this amount was handed over to the U.S. administration as occupying power in Iraq in 2003.[20] Where did these 8 billion U.S. dollars go?

A critical scrutiny of how the Member States of the United Nations perform leads to the conclusion that too many of them simply do not live up to the purposes and principles laid down in the Charter. This indicates that there is great need for reform at the national level in many states.

The question is then where to begin. The answer should be simple: With the states from which one has reason to expect better – the states that belong to the so-called Western and Others Group (WEOG), among them my own country Sweden and the U.S.. The reason why we should begin here is that if these states do not perform, they cannot credibly demand that other states should abide by the law.

- **The United States carries a heavy responsibility for the present shortcomings of the Organization**

Since I am addressing an American audience, it is natural to look at the U.S. in this context. The reason is that the U.S. – today the most powerful nation in the world – has not lived up to its international commitments in the way one has reason to expect from a democracy and a state under the rule of law. Experiences over the past few years also show that not even the most powerful state can act on its own at the international level. Sometimes also the U.S. has to rely on the United Nations.

As a matter of fact, my greatest disappointment upon leaving the United Nations after 10 years as its Chief Legal Officer was not the states that the U.S. had named "rogue states". Obviously, there are many states that have a long way to go before they can be recognized as trustworthy UN Members. No, it was the United States that was my greatest disappointment.

For someone like me who has always looked to the United States as a bulwark – a democracy and a state under the rule of law that twice in the past century assisted us in Europe when we were in difficulties – it is completely incomprehensible that the U.S. administration did not see the window of opportunity that opened up when the Berlin Wall came down and the communist empire disintegrated. Instead of using this momentum, unprecedented in history, to set the example through strict adherence to the law, the U.S. administration started acting on its own, often applying the law as it saw fit.

The UN Charter has a special standing in public international law. Its Article 103 trumps other international obligations, stating that "in the event of a conflict between the obligations of the Members of the United Nations under the present Charter and the obligations under any other international agreement, their obligations under the present Charter shall prevail".

The position of the present U.S. administration seems to be that there is nothing exclusive about the UN as regards American interests and that the UN is only one of the tools that America, its allies, and other democracies use cooperatively on the basis of shared values.

Certainly, there are many tools. And there is nothing wrong with that. But this philosophy calls in question the U.S. commitment on a core point; it would seem that the U.S. does not want to recognize Article 103 of the UN Charter. But this very important provision, recognized also by NATO, is fundamental to the system of collective security at the heart of the UN Charter. This is why the UN sometimes is – and must be – exclusive and why the UN Charter must prevail.

This applies, in particular, to the rules relating to the Security Council, the organ on which Member States have conferred "primary responsibility for the maintenance of international peace and security."[21] It goes without saying that its five permanent members – China, France, the Russian Federation, the United Kingdom and the United States of America – have a special responsibility here.

Regretfully, this is where the UN has failed the most. The Council's authority is at stake. Changing the Council's composition – the most contentious issue in the ongoing UN reform discussions – will not make a difference in this respect unless it is coupled with a change of attitude. If not, the question is whether a reform on this point really serves international peace and security.

Since the establishment of United Nations in 1945, the UN Charter regulates the use of force to maintain international peace and security. It is permitted only in two situations: in self-defence under Article 51 or with the authorization by the Security Council under Chapter VII of the Charter.

These provisions notwithstanding, the United States (admittedly with the support of the United Kingdom; there is reason to believe that they very much regret this support today) attacked Iraq in March 2003. There was no permission from the Security Council to use force in the situation at hand. And it was certainly not a case of self-defense. Consequently, it was a clear violation of the UN Charter.

I am not for a moment defending Saddam Hussein or his regime. (I have actually met with Saddam Hussein in Baghdad in February 1998. This was on the occasion when Secretary-General Kofi Annan managed to negotiate an agreement with the Iraqi president that the UN weapons inspectors would be allowed to inspect also his palaces.[22]) But it is important to demonstrate to the whole world that when action is taken against a Member State this is done in accordance with international law, in particular if it involves the use of force. We can now see the consequences.

Let me reiterate: The point of departure is that the UN Charter forbids the use of force against the territorial integrity or political independence of any state unless certain conditions are met.

These rules were elaborated by persons with experiences from two world wars, and they should not be easily abandoned. As a matter of fact, it is when international peace and security are threatened that these particular rules are needed and should be respected. In such situations it is important to make clear before action is taken whether the situation at hand is one of self-defence or not. If it is not, it is for the Security Council to authorize the use of force.

It is true that the language of Article 51 of the UN Charter has been of concern: self-defence is not permitted unless "an armed attack occurs". However, this matter has been addressed by the High-level Panel on Threats, Challenges and Change. In their report, the Panel makes a statement that I believe is broadly accepted: "[A] threatened State, according to long established international law, can take military action as long as the threatened attack is *imminent*, no other means would deflect it and the action is proportionate."[23]

Another matter of concern in this context is the U.S. National Security Strategy adopted in 2002.[24] According to this strategy the U.S. would feel free to use force without a clear

mandate from the Security Council. As I have pointed out on other occasions, this attitude flies in the face of the UN Charter and its system of collective security, in particular Article 51 on self-defence. The U.S. position creates uncertainty among other players on the international arena.

It is sad that the present U.S. administration does not seem to have learnt the lessons from history and in particular the lessons from World War II. I often quote President Dwight D. Eisenhower in this context. In his Second Inaugural Address on 21 January 1957, the President and former general said:

> "Yet this peace we seek cannot be born of fear alone: it must be rooted in the lives of nations. There must be justice, sensed and shared by all peoples, for, without justice the world can know only a tense and unstable truce. There must be law, steadily invoked and respected by all nations, for without law, the world promises only such meager justice as the pity of the strong upon the weak. But the law of which we speak, comprehending the values of freedom, affirms the equality of all nations, great and small.
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> We recognize and accept our own deep involvement in the destiny of men everywhere. We are accordingly pledged to honor, and to strive to fortify, the authority of the United Nations. For in that body rests the best hope of our age for the assertion of that law by which all nations may live in dignity."[25]

Just so that the picture is clear: In March 2003, two permanent members of the Security Council attack Iraq in violation of the UN Charter. At a presentation in the Council, the world's most powerful state provided information that later proved not to be true. There was no clear permission by the Council to use force. Nevertheless, they attacked. Later it would emerge that the decision to attack Iraq was actually taken at a much earlier stage. In reality, what the UN thought about it did not matter.

The fact that the U.S. administration in this way has demonstrated that it is prepared to put itself above the law when it suits its interests sends a terrible message to the world.

There are also other elements that should be mentioned in this context. Abu Ghraib will for a long time cast a somber shadow over the American intervention in Iraq. Guantánamo has become a stain on the Star Spangled Banner.

A new law has been adopted to meet the criticism of the treatment of the prisoners at Guantánamo. Many American experts maintain that this legislation does not fulfill the demands that must be met by a state under the rule of law and which follow from binding international agreements. The President of the International Committee of the Red Cross has expressed concerns.[26]

I am not certain that the American public realizes how much this and other acts have damaged the standing of United States in the world. In Europe and certainly in my own country, there are many steadfast friends of the United States. And I am definitely among them. In conversations also with U.S. supporters the focus is very much on the present U.S. policies. Many follow the development with disbelief.

But you can find these reactions in many other places in the world. I happened to be in Thailand at the end of last month. On 29 October, I found a very critical op-ed in Bangkok Post under the title "Will the real America stand up?" It contained a reference to the following quote from an American source, a brother of a U.S. soldier who lost his life in Iraq: [27]

> "Somehow America has become a country that projects everything that it is not and condemns everything that it is." [28]

Looking at the situation in the world today, it is obvious that one of the most important things we should be striving for is the observance of the principles of the rule of law both at the national and international level. This requires equality before the law and respect for the norms agreed upon.

At the international level, international law must be respected, and in particular the UN Charter and its rules that forbid the use of force against the territorial integrity or political independence of any state, unless certain conditions are met.[29]

At the national level, at least four elements are necessary to establish a society under the rule of law: (1) democracy; (2) proper legislation; (3) institutions to administer this law; and (4) individuals with the necessary integrity to handle this administration. It will take a long time before all countries have reached this stage. When, for example, will China be there?

Also other elements are necessary, one of them being a free and independent Bar. I welcome the presence of members of the Bar on this occasion and commend the work by the ABA and its members in this field. And since there are also representatives of the American Society of International Law present, let me say that I have always admired and respected your work both at home and abroad.

Exactly two weeks ago, I was invited to address a high level Forum in the Lao Democratic Peoples Republic. Some 250 high-level representatives from the parliament, the government, the judiciary, the Prosecutor's Office, and the Bar participated. The effort by this one-party state to establish a system under the rule of law is commendable, but like so many other states they still have a long way to go. And even longer if their role models fail!

A year ago, I was addressing a seminar in an Arab country – professors of law and political science. When we discussed the rule of law they complained bitterly of the double standards that they thought that the powerful states applied.

Therefore, it is important that states look upon themselves first and address their own shortcomings before they criticize other states and the United Nations.

Now some of you may say: He has not even mentioned 9/11 and the "war against terrorism"! Maybe he does not understand what this meant to us in the United States?

Let me therefore be clear: Yes, I am a Swede. But I am also a New Yorker having lived there for 10 years between 1994 and 2004 – a fantastic experience, a privilege!

I saw the towers ablaze. I experienced it all – including the threat against the UN building, which we had to evacuate. My wife and I went down to ground zero some days later to bow our heads and pay our respect – both of us fighting to hold our tears back.

But one does not fight terrorism by losing one's legal compass. "War on terrorism" is a dangerous misnomer. This matter was discussed specifically by the Madrid Summit on Democracy, Terrorism and Security. The Summit took place in Madrid in March 2005, i.e. one year after the terrorist attack on that city. It was organized by the Club of Madrid, which is an association of former heads of state and government in democratic states.[30]

In the months leading up to the Madrid Summit, more than two hundred scholars and expert practitioners explored the issues of democracy, terrorism and security. They were organized in working groups. Each working group issued a final paper containing principles and recommendations. May I quote the following principle from the working group on legal responses to terrorism, which I had the privilege of coordinating and which included also American experts:[31]

> "To describe combating terrorism as a 'war' is not only misleading – it is dangerous. The term 'war on terrorism', instead of 'fight against terrorism', plays into the hands of perpetrators of terrorism. At the same time, it confuses the terminology applied in international humanitarian law and jeopardizes the applicability of human rights standards."

The members of the working group thought that it is contrary to the basic principles of democracy and international law for any persons not to fall under the protection of law. This would apply, for instance, to practices such as indefinite detention without access to judicial review, extrajudicial execution, and inhuman and degrading treatment in the course of interrogations, conducted either domestically or in third countries after extra-legal rendition.

The members of the working group emphasized that a forceful response to terrorism is not undermined by the rule of law. On the contrary, the rule of law is the appropriate framework for the response. To apply the terminology "war on terrorism" entails the possibility that human rights standards that should be applied in these cases may be

indefinitely suspended. The reasoning of the working group was expressed in a number of recommendations.[32]

Based on this extensive preparatory work, the Summit adopted the Madrid Agenda on 11 March 2005. It contains a number of principles and recommendations.[33] Under the title "A Comprehensive Response" the Agenda states that we owe it to the victims to bring the terrorists to justice. Law enforcement agencies need the powers required, yet they must never sacrifice the principles they are dedicated to defend. Measures to counter terrorism should fully respect international standards of human rights and the rule of law. On confronting terrorism it says:

> "Democratic principles and values are essential tools in the fight against terrorism. Any successful strategy for dealing with terrorism requires terrorists to be isolated. Consequently, the preference must be to treat terrorism as criminal acts to be handled through existing systems of law enforcement and with full respect for human rights and the rule of law."

This approach is also the overarching strategy in the work of the United Nations to counter terrorism. Reference is made to the report of the Secretary-General - *Uniting against terrorism: recommendations for a global counter-terrorism strategy* – published in April 2006,[34] and to the many resolutions adopted by the General Assembly in particular during the last year.[35]

In particular, I should like to draw your attention to General Assembly resolution A/RES/60/288 on the United Nations Global Counter-Terrorism Strategy, adopted on 8 September 2006, and its Plan of action, section IV: "Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism".

- **Concluding remarks**

Allow me now a few concluding remarks.

I have already explained why there has been so much focus on the U.S. in this address. Obviously, there are many other states that must also do better. Among them are those that need assistance. Among them are those that are recalcitrant. But just imagine the strength of the United Nations if it had the wholehearted support of the United States of America!

The UN should certainly be criticized when it is appropriate. But one must be clear about where the criticism should be directed. Should one criticize the Secretariat, the General Assembly, the Security Council, or another UN body? One must also be aware that the criticism by some Member States is sometimes just a pretext to draw attention from the Members' own shortcomings.

But it is important to bear in mind that we cannot talk about UN reform only in the abstract and without looking at other realities. At the forefront, we find globalization. As a matter of fact, an enormous geopolitical shift is under way. China and India, in particular, are on the rise, and the predictions are that in some 40 years China alone will have bypassed the U.S. in terms of Gross Domestic Product.[36]

There world population is growing. We are presently some 6.5 billion people on the globe. Predictions are that we will be 9.1 billion at mid-century.

Global warming results in desertification and the melting of the icecaps with the result that the sea level will rise. If you have not seen Al Gore's "An Inconvenient Truth" you should. Admittedly, some of it is domestic party politics. I do not want to get into that; it would not be appropriate. But the scientific part reflects results produced by serious scientists. It is true that all scientists do not agree with the conclusions, but the signals are serious enough and they are there for everyone to see.

Another important source that is recommended for critical study is the Arctic Climate Impact Assessment (ACIA), which you can find on the Web.[37] Irrespective of whether the development will be exactly as predicted, this and similar reports send a powerful wake up signal.

I understand that the State of California and some other States have acted on their own to reduce carbon dioxide emissions within the U.S. This should be commended.

If we translate all this into security terms, it represents a potential threat to international peace and security of great significance, in particular if states do not bow to the dictates of the law.

With respect to the United States, we should remember that it is a multifaceted society. Like so many, I am convinced that the U.S. administration will rediscover the philosophy and again demonstrate the statesmanship that led to the creation of the United Nations. The U.S. administration will no doubt realize that it is in the interest of the United States of America to take the lead by setting the good example. Maybe some of you present in this room will be part of this effort one day.

Thank you for your attention!

[1] See *inter alia* Eric Stein. Mr. Hammarskjold, the Charter Law and the Future Role of the United Nations Secretary General. In: *American Journal of International Law*, Vol. 56, No. 1 (Jan., 1962), pp. 9-32.

[2] http://www.mannheimerswartling.se/gn/en/index.html

[3] See Stephen C. Schlesinger, *Act of Creation – The Founding of the United Nations*. Westview Press 2003, p. 15. See also http://www.trumanlibrary.org/ww2/stofunio.htm

[4] http://www.un.org/aboutun/charter/

[5] S/PRST/2006/28.

[6] http://unsystemceb.org/

[7] Article 13, paragraph 1 of the UN Charter.

[8] This body has now been transformed into the Human Rights Council. See General Assembly resolution A/RES/60/251. The first meeting of the Council was convened on 19 June 2006.

[9] Reference is made to the International Law website http://www.un.org/law/ and the Human Rights website http://www.un.org/rights/

[10] http://www.un.org/law/counsel/english/Vienna_24_2_04final.pdf

[11] General Assembly resolution A/RES/60/1. See in particular paragraphs 11, 16, 21, 24 (b), 25 (a), 119 and 134.

[12] S/PRST/2006/28. See also http://www.un.org/News/Press/docs/2006/sc8762.doc.htm

[13] General Assembly resolution A/RES/60/1.

[14] A/59/2005.

[15] http://www.un.org/peace/peacebuilding/ and http://www.ohchr.org/english/bodies/hrcouncil/

[16] UN Doc. A/60/846 and Add. 1-4. See also http://www.un.org/reform/

[17] Article 97 of the Charter.

[18] See inter alia the reports by the Volcker Commission at http://www.iic-offp.org/documents.htm Reference is made, in particular, to the final report *Manipulation of the Oil-for Food Programme by the Iraqi Regime* at that site. See also the Secretary-General's comments at http://www.un.org/News/Press/docs/2005/sgsm10189.doc.htm

[19] See paragraph 17 of Security Council resolution 1483 (2003). The Development Fund for Iraq was in reality controlled by the U.S. and the UK as occupying powers under unified command (the "Authority"), see paragraph 13 of the preamble of the resolution.

[20] See Development Fund for Iraq - Statement of Cash Receipts and Payments - For the period from 22 May 2003 to 31 December 2003 (with Independent Auditors' Report) at http://www.globalpolicy.org/security/issues/iraq/dfi/2004/0715receipts.pdf

[21] Article 24 of the Charter.

[22] Reference is made to Security Council resolution 1154 (1998).

[23] Cf. UN Doc. A/59/565, para 188: "- - - However, a threatened State, according to long established international law, can take military action as long as the threatened attack is *imminent*, no other means would deflect it and the action is proportionate. - - -"

[24] http://www.whitehouse.gov/nsc/nss.html

"The United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively."

[25] See e.g. http://www.yale.edu/lawweb/avalon/presiden/inaug/eisen2.htm

[26] Guantanamo tribunals spur Red Cross concern. In: *Financial Times*, 20 October 2006.

[27] http://www.truthdig.com/

[28] Kevin Tillman, *After Pat's Birthday*. Available at http://www.truthdig.com/report/item/200601019_after_pats_birthday/

[29] Article 2, paragraphs 4 and 7 and Article 51 of the UN Charter.

[30] See http://summit.clubmadrid.org/

[31] The Madrid Summit Working Paper Series, Volume III – Towards a Democratic Response , page 13.

[32] Reference should here be made to recommendations 1.4 and 1.10 through 1.13 of the working group:

1.4 States should take the necessary measures to ensure that acts of terrorism are defined as offences under national law and punishable by effective, proportionate and dissuasive criminal penalties. States should also take the necessary measures to ensure that legal persons can be held liable, without excluding criminal proceedings against natural persons who are perpetrators, instigators or accessories in acts of terrorism.

1.10 In preventing and suppressing terrorism, States should scrupulously observe and guarantee human rights and humanitarian law standards and respect for the rule of law. In particular, States should comply with the international standards of treatment of individuals suspected of or charged with acts of terrorism as well as procedural safeguards for suspects and defendants.

1.11 States should observe that there are absolute human rights, from which no derogation is possible, such as the prohibition of torture, and relative human rights, such as freedom of expression, which may be restricted only to the extent that is strictly justified in accordance with international human rights standards.

1.12 In accordance with applicable international law, States should, as soon as reasonably possible, give humanitarian access to persons arrested for or charged with acts of terrorism to their State of nationality and international humanitarian agencies such as the International Committee of the Red Cross (ICRC). International humanitarian agencies should be given access to stateless persons.

1.13 States should give persons arrested, charged, or otherwise deprived of liberty for acts of terrorism access to legal representation and to consular officers of the State of their nationality in the case of foreign persons, and should provide legal counsel for such persons.

[33] The Madrid Principles

"Terrorism is a crime against all humanity. It endangers the lives of innocent people. It creates a climate of hate and fear, it fuels global divisions along ethnic and religious lines. Terrorism constitutes one of the most serious violations of peace, international law and the values of human dignity.

Terrorism is an attack on democracy and human rights. No cause justifies the targeting of civilians and non-combatants through intimidation and deadly acts of violence.

We firmly reject any ideology that guides the actions of terrorists. We decisively condemn their methods. Our vision is based on a common set of universal values and principles. Freedom and human dignity. Protection and empowerment of citizens. Building and strengthening of democracy at all levels. Promotion of peace and justice."

[34] UN Doc. A/60/825.

[35] At http://www.un.org/terrorism/res.htm

A/RES/60/288	The United Nations Global Counter-Terrorism Strategy
A/RES/60/158	Protection of human rights and fundamental freedoms while countering terrorism
A/RES/60/78	Measures to prevent terrorists from acquiring weapons of mass destruction
A/RES/60/73	Preventing the risk of radiological terrorism
A/RES/60/43	Measures to eliminate international terrorism

[36] See for example Keystone India. Published in BusinessWeek August 22/29 2005.

[37] Available at http://www.acia.uaf.edu/

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Συνημμένα: Chairman Report Financial.doc

To the participants of the 26th Plenary Annual Session:

The High-Level Expert Group members met in Hamburg, Germany on 20 June 2008 to hold a discussion on 'Managing International Financial Markets.'
We are pleased to send you the chairman's report of the meeting as per the attached.

We look forward to welcoming you at Ronneberga.

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INTERACTION COUNCIL

Founded in 1983

Chairman's Report on the High-level Expert Group Meeting

Managing International Financial Markets

Chaired by Jean Chrétien

20 June 2008
Hotel Atlantic Kempinski
Hamburg, Germany

President Horst Koeler of Germany has said, "The global financial market has become a monster, responsible for massive destruction of assets". The current crisis of the international financial markets is also affecting real economic activity, and faith in the system has been eroded. Huge disequilibria in the international balance of payments could lead to more disorderly adjustments, including an ever-weakening US dollar. The currency instability was a factor leading to manifold global speculation, and the rising speculation was accompanied by some practices with questionable decency. Only few experts can perceive correlations and interdependence in the opaque globalised financial markets.

Global financial crises are a daunting legacy since the 1970s. But the most significant feature of the current crisis is that it has been so long in coming, so foreseeable and predictable. In fact, it has been warned repeatedly by the Council's Honorary Chairman, Helmut Schmidt. This has raised the question of what the regulators and supervisors could and should have done to prevent the latest crisis triggered by sub-prime loans. Some other challenging questions asked to the high-level experts gathering in Hamburg were; is a restructuring of regulatory frameworks necessary in the US, the UK, and globally? Should central banks get a mandate for pre-emptive action on asset bubbles in the making to prevent broad dislocations?

Diseqillibrium in the International Balance of Payments

The enormous U.S. budget deficit has been accumulating since the beginning of the new century. Since private households are saving almost nothing, high deficits continue in the U.S. trade balance. These deficits are financed by foreign trade partners, making the U.S. the largest debtor in the order of $8 trillion, amounting to about two thirds of the U.S. GDP grosswise and about a quarter netwise. Americans live from foreign capital import in the order of $5 to $6 billion dollars every year, netwise. How long will the U.S. be able to afford this level of debt? How long will the American foreign partners be able and willing to afford their capital exports to the U.S.?

Disequilibria, housing bubbles in the U.S., the sinking U.S. dollar and the rising energy prices have, to a large extent, all been fuelled by the enormous deficits, low interest rate policies and the opening of the liquidity floodgates at every difficult turn of the economy. Is the sinking dollar pushing the oil price up and thereby inflation in the consumer countries? Is there a fundamental disequilibrium between demand and supply? Or is it the hedge funds and other speculators that are pushing the oil price up? And how do we deal with the oil price-related explosive growth of the Sovereign Wealth Funds? Is this the beginning of a "rebalancing"? Or, are we just entering a period of increased volatility?

The gravity is shifting increasingly to the Euro from the U.S. dollar. In the long-run, the Euro will play a more active role, but nobody wants a sharp decline of the dollar.

The "best selling commodity" of the U.S. has been the "almighty dollar". But this is predicated on the dollar maintaining sound financial markets in the U.S., good rates of return, and keeping the currency value over time. Structural reform, thus, is inevitable in the U.S. The U.S. government officials keep insisting on a stronger dollar, since depreciation has led to a negative influx of dollars.

High and rapidly rising energy and food prices create a major challenge. They result in an income transfer from consuming to producing countries. If prices remain high, negative effects on world wealth distribution will be inevitable. At the moment there are only two countries with current account surplus in the case of Asia. A common cause is abundant liquidity created all over the world. This "moneterization" may not be sustainable in the future, as it fuels both increasing price pressure and widening disequilibrium.

The daily transaction volume in foreign exchange markets today aggregate approximately $3.2 trillion dollars. But this enormous figure is only a part of the problem we face. What is its implication for the practicality of credible and sustainable currency interventions to impact global imbalances? For one, no real solution can be brought by foreign exchange adjustments any longer.

Risks Inherent in Newly Created Derivatives and Hedge Funds

Today, there are more than 9000 unregulated, risk-taking hedge funds, managing nearly $2 trillion in assets. Many of these funds tend to register their headquarters in tax havens where functioning supervisory authorities are absent. Most of them aim to maximize returns on their assets with repeated borrowing. Although hedge funds claim to give liquidity to the market, they could also rapidly deplete liquidity. Large financial institutions also manage funds off-balance and, when losses are incurred, these are channeled back to them. The extraordinary projections of profits for hedge funds fuel greed, which has an enormous negative impact upon the regulated market.

However, politicians as well as ordinary investors lack both an overview and specific knowledge. As evidenced during the sub-prime crisis it is very difficult, if not impossible, to get information on what is going on out of your own jurisdiction. Only a few highly specialized experts can perceive private financial correlations and interdependencies in the opaque globalized financial markets. It is largely because there is no supervision of hedge funds and their related institutions, unlike banks and insurance companies which are supervised by governments, nor are there any internationally effective rules. Despite the potential global risks inherent in these funds, very few financial authorities have the power to even judge and restrain these financial risks that could affect their own national economies.

Presumably, financial instruments are devised to diversify risks which, market players argue, help stabilize the financial market and therefore the economy as a whole. But the very instrument to diversify risks often becomes a new risk, as manifested in the recent

U.S. sub-prime loan case. By enlarging pricing fluctuations, these funds could destabilize the market as well. Short-term investment of these funds cannot align with the long-term efficiency of corporations.

There is also a problem in dealing with the derivatives industry. The systemic importance of Bear Sterns was so eminent. According to the Bank for International Settlement, about 85% of derivative trading volumes are over-the-counter (OTC) and therefore more complex, risky, profitable and less liquid than exchange traded derivatives and not transparent at all. Settlement is notoriously slow and inefficient. Pushed by the regulators and lately by a declaration from the G7 finance ministers, the leading investment banks have undertaken to build a central clearing operation for $62.2 trillion Credit/Debt Swaps by September 2008. This could theoretically take a lot of complexity and systemic risk out of this huge volume business. But by implication it would also reduce profitability, and therefore induce the risk of migration of business and people to the unregulated industry.

Increasing attention is being paid to Sovereign Wealth Funds, as many countries, including China and Russia, are creating or expanding new ones. Already some 30 SWFs exist with the estimated total investment exceeding $3 trillion. Countries with massive natural resources or trade and current account surpluses manage these SWFs. Unlike the foreign exchange reserve investment, the objective is to maximize returns by investing in a wide array of financial instruments and real assets. Concerns have been raised and international consultations are going on related to transparency and investment strategies of publicly owned sovereign wealth entities.

Supervising International Markets and Ensuring More Transparency

Regulators and market participants are playing the game with dynamite. There is a broad consensus that something should be done about aligning managers' incentives and compensation with investors' interests, risks and rewards. The question is one of supervising the financial markets with some urgency. Politicians are recognizing and responding to public sentiment that has a growing potential for social tensions – at a time when the income divide between the rich and the rest keeps growing and has become an issue of public debate, which is fueling a growing resentment towards market economics.

Excesses in the financial industry may produce a broader and damaging political and social backlash against the principle of free markets. Already some proposals have been made to curb the global flow of capital. Proposals for tougher financial regulation abound. The difficulty is to ensure that damage done by past excesses is not followed by damage to the markets' functioning and the economies they serve with new regulation that aims to control past excesses.

If , consequently, U.S. investment banks should come under the jurisdiction of the Federal Reserve System, their enormous leveraging might be reduced to the level of commercial banks. That would strongly reduce their lending to hedge funds and private

equity funds as well as the leveraging capacities of those funds. This could be more effective than any efforts to regulate these funds directly. At the same time, regulators are working on additional strict capital adequacy rules for banks, including their trading books and off-balance sheet holdings of structured credit products. This would reduce not only their own leverage, but also that of their key leveraging customers, the hedge funds and private equity funds.

The redrafting of rules by the Basel Committee at Bank for International Settlements intentionally encompasses liquidity management – rightly so, given the ingenuity with which the derivatives sector has developed not only AAA products out of junk, but also for a large scale reverse maturity transformation.

The following observations were made during the High-Level Expert Group Meeting in Hamburg:

(Disequilibrium)

- American households should start making ends meet by borrowing less and by saving more and thus take responsibility for their financial soundness.

- While criticizing the U.S. consumption style, it is strongly encouraged that the developing and emerging countries take measures to enhance their national consumption, including establishment of adequate safety nets, in order to avoid the excess supply of the funds into the global capital market.

- Emerging market countries should increase consumption in order to reduce their surplus.

- It should be determined whether speculation in oil markets drives up commodities prices. Investors should follow prices and not the other way around.

(Trade-off)

- Political leaders must be clear with their electorates that there is a choice between long term financial stability and cheap money.

- Spell out clearly to the population the trade-off between stability and high cost of capital and cheap cost of capital and instability.

(Regulation, supervision & transparency)

- A more integrated financial regulatory system in the U.S. could go a long way in raising the private saving rate through the discouragement of excessive leveraging and debt.

- There is a need for a redirection of the global financial system to make it more robust and resilient. There may be a short-term price to pay but it is worth taking in order to bring long-term prosperity and avoid serious crisis.

- The steps to be taken should not stifle innovation and synamism of markets. Rather, they should strengthen shock absorbers and capital cushions in good times, to increase the resiliency of the financial system to stress and severe shocks.

- A holistic approach should be taken in view of regulation. International cooperation should be developed and all on and off balance sheet entities should be treated equally in regulatory terms.

- The overall leverage has to be reduced progressively. Stronger buffers and cushions, both in terms of capital and liquidity, have to be introduced and maintained in all circumstances, including in good times. This new endeavor should be undertaken worldwide with no loopholes. An international body, preferably the IMF, should be empowered to implement those recommendations.

- Central banks that have no supervisory task should be given direct access to supervisory information, including on-site inspections in order to sustain their role and mandate to ensure the stability of the financial system.

- Transparency of non-regulated entities should be increased by giving supervision authorities and central banks the right to get information in times of stress or when financial stability is at risk.

- Public authorities should be given prompt and continuous access to all relevant information by all market participants, whatever their legal status, both in normal and crisis times, so as to minimize moral hazard in their interventions and increase their efficiency.

- Political leaders should consider ways to regulate the risk-taking, unregulated hedge funds in order to increase transparency of financial operations and grant supervisory authorities the possibility of intervening against misuse.

- There should be no off-balance sheet, but rather, higher capital requirements and/or maximum leverage should be allowed.

- Ratings agencies must be regulated. Their knowledge must be improved and there must be transparency with respect to the models they base their ratings on. Increased competition within the industry by more agencies being present could improve standards.

(The role of IMF)

- It is recommended that the IMF is given an oversight and signaling role on global financial standards and measures. The independence of the IMF Board should be strengthened; the Board should adhere to the articles instead of the capitals.

- The IMF should enhance symmetrical surveillance of financial systems in member countries.

- The G8 should request the IMF to propose recommendations for guidelines of the surveillance and direction of international financial markets. These should be equitable and loaded against developing and emerging markets, whose rather special needs should be catered to.

- The IMF should be tasked, as part of its formal mandate, to monitor, analyze and provide guidance to international financial markets, survey the conduct of market participants and their regulators and supervisors, benchmark this conduct against internationally accepted standards and best practices and make its assessments public. Where such standards and best practices do not exist, the IMF should convene the relevant parties to facilitate their formulation in a cooperative manner. For the IMF to fulfill this task effectively, its governance structure should be reformed.

- The Heads of State and Government of the G8 should take the lead in launching such a reform of the IMF by calling for a new "Bretton Woods"-type conference while at the same time signaling their readiness to reform IMF quotas and voting rights in such a manner that no individual member country retains a blocking minority.

(Risks inherent in new instruments)

- It would be highly desirable to abolish the current financial set-up in the tax-exempt and control-free islands in the Caribbean, Europe and elsewhere. National and international actions should be taken in order to close down the tax havens. As a short-term goal, governments of OECD countries could prohibit their banks from lending to private financial institutions registered in tax havens.

- This calls, among others, for stronger norms on accountability, governance and ethical conduct by managers of financial intermediaries and funds, as well as the closing of information gaps through improved disclosure by both regulated and non-regulated entities.

- Incentives problems in the financial industry must be addressed as a matter of urgency. Solutions should be strictly enforced. As a general principle, market participants should fully share the consequences of their decisions on risk taking (both origin and transfer). Compensation practices for management should be designed so as to be consistent with the long term interests and risk preferences of investors and savers.

(Sovereign Wealth Funds)

- Sovereign Wealth Funds have played a positive role in the global financial system. It would not be helpful to the system to act on hypothetical possibilities of wrong-doing in the future. Hedge funds and rating agencies present a more pressing priority for attention and supervision than the SWFs.

- A set of standards or best practices should be developed on the management of SWFs. There should be better access to information on them. The EU initiative to work with the IMF and OECD to develop standards and best practices to gain more knowledge on SWFs as potentially important future market players is very welcome and should be supported.

(Professionalism & moral responsibility)

- The Council members should pay close attention to the specific needs and problems of the emerging markets. The "failure" of the Doha round is an indication of the abandonment of the moral leadership in the financial world.

- Political leaders should be explicit about the working personal integrity and trust in the foundations of the financial systems, especially in the credit banking world. Where these standards are ignored today they should be condemned.

- Professional responsibility of bankers must be emphasized. They cannot rely blindly on the ratings of ratings agencies. They must remember their duties and prepare due diligence.

- Remuneration system in banking sector should be addressed. Beef up regulators: more money, more training, better standing in industry so that the best can be attracted.

- Bring incentive structures of firms within supervision, compensation should be balanced by time and risk taking (e.g. by having multi-year horizons for bonus schemes).

- A call for global initiative on financial education should be made. As demographic challenges in an increasing number of countries make greater long-term savings and investment efforts by individuals and households inevitable, people need to better understand the relationship between risk and return in financial markets. People should know what kind of rates of return can be sustainable over longer periods of time without severe risk of loss. Governments and the private financial sector should work together to launch a comprehensive educational effort to explain to people the financial challenges they face due to aging populations, and raise their financial literacy in order to help them to better understand the financial risks and guide them towards safer savings/investment strategies.

High-Level Expert Group Meeting
List of Participants

Managing International Financial Markets

20 June 2008
Hotel Atlantic Kempinski, Hamburg, Germany

List of Participants

InterAction Council Members

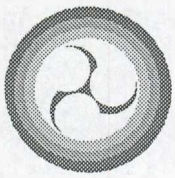
1. H. E. Mr. Helmut **Schmidt**, Honorary Chairman (Former Chancellor of Germany)
2. H. E. Mr. Malcolm **Fraser**, Honorary Chairman (Former Prime Minister of Australia)
3. H. E. Mr. Ingvar **Carlsson**, Chairman (Former Prime Minister of Sweden)
4. H. E. Mr. Jean **Chrétien** (Former Prime Minister of Canada)
5. H. E. Mr. Olusegun **Obasanjo** (Former President of Nigeria)

Associate Members

6. Baroness **Jay**, Chairperson of the Overseas Development Institute, London (U. K.)
7. Mr. Seiken **Sugiura** (Former Justice Minister of Japan)

High-level Experts

8. Dr. Muhammad **Al-Jasser**, Vice Governor, Saudi Arabian Monetary Agency
9. Mr. Axel **Bertuch-Samuels**, Deputy Director of the Monetary and Capital Market Department, IMF
10. Dr. Ulrich **Cartellieri**, Former member of the International Advisory Committee of the Federal Reserve Bank of New York (Germany)
11. Prof. Jose Manuel **Gonzàlez-Pàramo**, Member of the Executive Board, European Central Bank (EU)
12. Mr. Hans-Helmut **Kotz**, Member of the Executive Board of the Deutsche Bundesbank (Germany)
13. Mr. Jean-Pierre **Landau**, Deputy Governor of the Banque de France
14. Dr. Vincenzo **La Via**, Chief Financial Officer, World Bank
15. Dr. Marc **Roovers**, De Nederlandsche Bank
16. Dr. Jochen **Sanio**, President, The German Federal Financial Supervisory Authority
17. Dr. Susanne **Schmidt**, Bloomberg (Germany)
18. Dr. Gillian **Tett**, Capital Markets Editor, Financial Times
19. Mr. Hiroshi **Watanabe**, Former Vice Minister of Finance for International Affairs (Japan)



INTERACTION COUNCIL

Paper submitted to the High-level Expert Group Meeting
"**Managing International Financial Markets**"
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Balance of Payments Disequilibria and Risks inherent in Global Funds

By Jörg Asmussen
Director General of Directorate-General VII,
National and International Financial Markets and Monetary Policy,
German Federal Ministry of Finance

The emergence in recent years of both record international payments imbalances and new global funds, in particular hedge funds, private equity funds and sovereign wealth funds, becoming key international players in cross-border asset allocation, has been widely perceived as a threat to growth and financial stability. Against this background, the question arises on the appropriate policy approach to dealing with these challenges.

Balance of Payments Disequilibria

Global imbalances have been a key issue in international policy discussions over recent years. Since the International Monetary Fund/World Bank annual meetings in Dubai in September 2003, the IMF and the G7 have repeatedly pointed to risks from the imbalances and have designed a policy strategy to facilitate a smooth unwinding.

The understanding of global imbalances has evolved over recent years. Initial analysis and discussions centred on the current account deficit of the United States. What factors have contributed to a large and widening U.S. current account deficit despite the sustained dollar depreciation (The U.S. dollar has depreciated by about 25 percent in real effective terms since early 2002, in what has been one of the largest dollar depreciation episodes in the post-Bretton Woods era.)?

- *Rise of emerging economies.* The dollar's real effective depreciation may exaggerate the improvement in U.S. competitiveness, by failing to capture fully the erosion of U.S. competitiveness caused by the rapid shift in trade toward low-cost emerging and developing economies since the 1990s. The weighted average relative price (WARP), which better reflects the growing importance of low-cost trading partners,

shows a trend erosion of U.S. competitiveness compared to real exchange rate indices.

- *Relative cyclical position*. Up until 2006, the U.S. economy had a more robust growth performance than other advanced economies—spurred by buoyant consumption reflecting the rising value of housing wealth — boosting U.S. imports over this period.
- *Oil prices*. Driven by strong global growth, including in emerging economies, oil prices have soared to historical highs in recent years, adding to the current account deficit of oil importing countries including the United States.
- *Financial market factors*. Large current account deficits have been financed by steady capital inflows into the United States mostly through fixed income instruments, including asset backed securities. These inflows included large private purchases of corporate and agency bonds, attracted by the perceived liquidity and innovativeness of U.S. financial markets, as well as significant official purchases of U.S. Treasury and agency bonds.

Gross international financial positions have built up even more rapidly than current account positions. The evolution of net foreign asset positions largely mirrors that of current account positions, with some differences due to valuation effects (in particular for the United States). Gross asset positions, however, have increased at a much faster pace, reflecting intensifying global financial integration. Although emerging market economies in aggregate do not account for a substantial share of total gross foreign assets, they account for a very large share of the build-up in international reserve assets.

Potential distortions and risks have increased in tandem with the widening external positions. There is indeed ample evidence that the current pattern of global imbalances is not entirely the result of freely operating market forces, but also of policy interventions (large, persistent and unidirectional interventions in foreign exchange markets; persistent deviations of fiscal policy from long-run equilibria; lack of flexible labour, product and financial markets). As a result, the medium-term policy strategy to address the imbalances is: The US to cut fiscal deficit and raise household savings; Europe to strengthen growth through structural reforms; China to liberalise domestic interest rates for more efficient investment; and greater exchange rate flexibility in emerging Asia.

Risks inherent in Global Funds: How to supervise and ensure transparency

In recent years, **hedge funds** have established themselves as a new type of financial intermediary in international financial markets. With assets under management reaching almost US-$ 2 trillion, their increasing participation in various asset markets and close

links with major financial intermediaries, hedge funds are no longer a "cottage industry" but big players in just about every corner of the global markets and, therefore, face the public and regulatory scrutiny that invariably follows.

In general, hedge funds have a constructive influence on financial market efficiency and stability. They can dampen market volatility by providing increased liquidity, facilitate the dispersion of risk and widen the range of investment products. More stable and efficient financial markets enable better risk sharing, contributing to a better allocation of resources in the global economy and fostering economic growth. However, in view of the increasing impact of the hedge fund sector on financial markets, these benefits must be assessed, in particular, against the potential for systemic risks for the global financial system. Financial stability concerns mainly focus on the potential impact that the failure of a hedge fund (or group of funds) may have on major financial institutions (banks and broker/dealers), as well as on hedge funds as possible transmitters or amplifiers of shocks within financial markets. Highly leveraged institutions, such as hedge funds, may be more vulnerable to market shocks. In addition, there is an increasing institutional as well as individual private demand for hedge funds investments as investors seek diversification benefits and attractive returns. Related with that is the issue of investor protection, which is certainly necessary for all but the most proficient private investors. Given that these typically highly leveraged institutions are less transparent and less closely regulated than other participants in financial markets, the question arises as to whether the current framework is fully appropriate to deal with the risks posed by the evolving hedge fund sector.

Direct regulation may be justified when market discipline is clearly ineffective at constraining excessive leverage and risk-taking. However, direct regulation could impose costs not least in the form of moral hazard and could limit funds' ability to make a positive contribution to market efficiency. Therefore, an indirect supervisory approach to hedge fund activities may be the preferred and practical means to address potential financial stability concerns. This indirect approach focuses on both risk management practices of regulated counterparties and hedge fund industry's commitment to transparency, risk management, good governance, and operational integrity as a means to improve market discipline. So far, however, the existing "Sound Practices" for hedge fund managers do not put investors and counterparties in a position to adequately assess - on an ongoing basis - the financial situation and the risk profile of hedge funds. Furthermore, they leave the questions open as to what the real benchmark is, whether such practices are broadly implemented and how compliance is monitored.

The issue of strengthening market discipline by increasing hedge fund transparency ranked high under Germany's G7/8 Presidency in 2007. In June 2007, the G8-Summit in Heiligendamm welcomed and endorsed the recommendations of the Financial

Stability Forum (FSF) calling on i) *supervisors* to act so that core intermediaries continue to strengthen their counterparty risk management practices; ii) *counterparties and investors* to strengthen the effectiveness of market discipline, including, by obtaining accurate and timely portfolio valuation and risk information, and iii) the *global hedge fund industry* to review and enhance existing sound practices benchmarks for hedge fund managers; in particular in the areas of risk management, valuations and disclosure to investors and counterparties in the light of expectations for improved practices set out by the official and private sectors.

Taking forward the call on hedge funds to review and enhance sound practice benchmarks, a UK-based Hedge Fund Working Group (HFWG) was formed in June 2007 to develop best practice standards for hedge funds. The HFWG's Hedge Fund Standards were published in January 2008, representing an important step towards improved disclosure practices and market discipline in this sector. The newly established Hedge Fund Standards Board (HFSB) will keep the standards up to date and monitor the take-up of the standards by hedge funds. A similar initiative is currently being undertaken by a US-based group under the auspices of the President's Working Group on Financial Markets (PWG). The US-standards are expected to be released shortly. Widespread acceptance and implementation of the developed best practice standards in the hedge fund industry will undoubtedly be crucial for the success of these initiatives. In addition, given that the hedge fund industry is global, close cooperation is needed between both groups on the development of a global standard of best practices.

Another issue, in the broader public often associated with hedge funds, refers to "shareholder activism", i.e. investors taking on a more pronounced role in dealing with companies in which they are invested with a view to encouraging behaviour more beneficial to shareholders. However, it is important to note that an overwhelmingly large number of activist investors are clearly not hedge funds. As far as private pools of capital are concerned, the issue may rather relate to **private equity funds (PE)** or venture capital funds. To address the risks of undesirable developments with respect to participations of financial investors in enterprises, especially enterprises quoted on capital markets, Germany, for example, is currently preparing a new "Risk Limitation Act". The purpose of this Act is to increase transparency and ensure the rule of law on the capital markets, in particular so that the influence which investors independently or jointly exercise over companies corresponds to their voting rights. The purpose of this Act is not to inhibit the acquisition of German companies by foreigners or institutional investors. All shareholders in quoted companies, company management, employees and outside creditors should be enabled to react early to plans of outside investors that might possibly be detrimental to a company. This includes activities such as loading viable

companies with excess loans or stripping assets from their balance sheets for short term gains that benefit only a minority group of investors.

Certainly, there is also a need for supervisory authorities to observe closely the credit exposure of banks to leveraged private equity funds. But despite the rise in leveraged lending to these vehicles in the last couple of years they still represent only a small part of market. A rise in defaults in this area would affect private equity fund managers and their investors but not the market as a whole and would not pose a systemic risk. Nevertheless, future developments must continue to be observed closely.

Sovereign wealth funds (SWF), whose assets have grown to a significant size in many countries, have helped to stabilize financial markets and support the dollar through capital injections into several financial institutions since summer 2007. As they are likely to have longer investment horizons than many private funds, sovereign wealth funds could continue to be a stabilizing force in global financial markets. At the same time, they could put greater weight on investment returns than reserve management, and the increase in (reserve) assets under their management could facilitate diversification of official assets away from dollar assets and add to the downward pressure on the dollar.

Two institutions, the IMF and the OECD are - at the behest of G7 Finance Ministers – working on international guidelines for SWFs and recipient countries dealing with SWFs. The macroeconomic and financial stability implications of SWFs fall squarely in the Fund's mandate for surveillance and ensuring the effective functioning of the international monetary system. Fund surveillance already covers SWFs but, given their increasing importance as active participants in the international monetary and financial system, a more systematic approach is desirable. For policymakers, the Fund, and other users, it is important that sufficient data on SWFs' activities are captured in the relevant macroeconomic datasets. However there are currently significant gaps in the statistics on SWFs. Efforts are underway to improve the coverage of SWFs in international statistics: for example, a voluntary data item on SWFs in the international investment position has been agreed for the draft Balance of Payments Manual.

Identifying a set of best practices for SWFs will help members to strengthen their domestic policy frameworks, they will be beneficial for international financial markets, and will ease the concerns that have been raised. The Fund has helped provide comparable operational guidance to members in the past, notably in the fields of fiscal transparency and reserve management. An inclusive, collaborative approach would be pursued involving all relevant members, and the SWFs themselves.

The OECD has long been at the forefront in efforts to develop international rules relating to capital movements, international investment, and of trade in services.

Member governments have established "rules of the game" for themselves and for multinational enterprises based in their economies by means of "instruments." The principal instruments are:

- *Codes of Liberalization*. The Code of Liberalization of Capital Movements and the Code of Liberalization of Current Invisible Operations constitute binding rules for all members, stipulating progressive, non-discriminatory liberalization of capital movements, the right of establishment and financial services, and other current invisible transactions.
- *Declaration and Decisions on International Investment and Multinational Enterprises*. The Declaration is a political agreement among adhering countries for co-operation on a wide range of investment issues. It contains four related elements, each governed by binding decisions on implementation: the National Treatment instrument, the Guidelines for Multinational Enterprises, an instrument on incentives and disincentives to international investment, and an instrument on conflicting requirements. All 30 OECD member countries and eight non-member countries have subscribed to the Declaration. The instruments have been regularly reviewed and strengthened over the years to keep them up to date and effective.

As regards the European Union, the European Council has recently stated that the European Union is committed to an open global investment environment based on the free movement of capital and the effective functioning of global capital markets and that SWFs have so far played a very useful role as capital and liquidity providers with long-term investment perspective. However, the Council noted that the emergence of new players with a limited transparency regarding their investment strategy and objectives has raised some concerns relating to potential non-commercial practices. The European Council agreed on the need for a common European approach taking into account national prerogatives, in line with the five principles proposed by the Commission, namely: commitment to an open investment environment; support for ongoing work in the IMF and the OECD; use of national and EU instruments if necessary; respect for EC Treaty obligations and international commitments; proportionality and transparency. The European Council supported the objective of agreeing at international level on a voluntary Code of Conduct for SWFs and defining principles for recipient countries at international level.

There are also various types of national regulations of SWF activities by recipient countries, i.e. securities regulation and corporate governance, financial institution regulation, anti-monopoly agencies, regulation of strategic sectors and foreign investment vetting agencies

To summarize, at the international and national level rules exist, or are being developed that will guide SWFs and recipient countries. Eliminating all the concerns about SWFs is likely to be difficult, but if left entirely unaddressed, they may fuel protectionism. Striking a - delicate - balance between protecting sensitive sectors on national security grounds, and ensuring a free flow of capital through transparent and stable ground rules, will be necessary to avoid a slippery slope of retaliatory protectionism and restrictions on international investment flows.

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INTERACTION COUNCIL

Supervision Indispensable for New Mega-Speculators!

(Translated from DIE ZEIT February 1st, 2007, Revised in April 2007)

By Helmut Schmidt

The wildly proliferating and globally operating funds must be subject to control like banks and security trading.

Goldman Sachs, one of the world's largest global investment banks in New York, was reported to have paid out 16 billion dollars to its board members and staff in 2006. The five largest American investment companies paid a total of 36 billion dollars altogether. For the average German citizen this seems an incredibly high amount of money equalling the annual borrowing of the German Minister of Finance. The question arises automatically whether financial markets are handled properly and in accordance with morality and decency. The following notes are an attempt to account for correlations and causations, origins and dangers. The author points out that he is not an expert in the sense of an active insider, but only has the experience of a former Minister of Finance in Western Germany (1972-1974) at his command.

At the end of World War II, the great majority of the Chinese population, of all Russians, Japanese, and Germans, lived in much poorer conditions than during the preceding decades. But at the outset of the 21st century, they live in better economical circumstances than ever before. Although the world population has doubled its numbers during the past six decades, the far bigger part of mankind has experienced an unforeseen economic prosperity. One of the reasons is the increasing acceleration of technological progress, especially with regard to transport, travel and telecommunication. Also, the states of the world have widely opened their national economies for the exchange of know-how, of experience, of technology, of goods and services. Simultaneously, the governments have allowed for the establishment of international and global markets not only for trading a few commodities, but for the very most of all goods and services. But the states of the world have joined in and adapted to the process of growing interdependence (newly called 'globalization') to a quite different extent and different in speed: Germany and Japan for instance have adjusted on a large scale and fairly early, China has reacted on a limited scale and much later only, and Russia even later.

The globalization of the financial markets did not develop earlier than during the 1970's – and hesitantly, for a start. When OPEC was used as a means of power politics in connection with persistent Arab-Israeli conflicts by a few petrol exporting countries, this coincided with the end of the global anchor role of the American currency. The result was a global economic recession. Today we have to face the upcoming danger of a similar position of power occupied by global players on the financial markets. These are neither states nor governments, but private financial institutions. In a daily and hourly frequency they make decisions that

impact deeply on the economic procedures of larger parts of the world. While OPEC is an economic syndicate (cartel) of governments in the world petrol market, the danger emanating from world financial markets lies in the herd instinct and behavior of the financial managers in the case of crisis. The globalization of financial markets has not yet affected China to a dramatic extent, and has hardly had any measurable effect on Russia so far. But the national economies of Germany and other European states, as well as the national economies of several South East Asian and South American countries, are increasingly swaying under the governance of private financial managers in the international financial centers like London and New York.

On the one hand, the German national economy is third in the world – ranging behind the USA and Japan. More than 40 per cent of our national product are exported, millions of German jobs depend on our export economy. The import rate of our national product – crude oil included – is almost as large. Germany is integrated into the global economy to a much greater degree than the United States of America, Japan, or China for example. On the other hand, the most important financial decisions regarding the private economy are not taken here in Frankfurt, but in London and New York. The reason for this lies in the fact that the once leading German banks did not grow at an equal speed with the German economy – with the only exception of Deutsche Bank.

Risks inherent in the globalized financial markets

Currency crises have accumulated since the United States, at the end of the 1960's, gave up their self-obligation to convert every dollar presented to the Federal Reserve System (FED) into gold. As a result from this the dollar lost its role and function as the exclusive anchor of a global system of fixed exchange rates in the early 1970's. If, for instance, in the late 1990's, banks expected payment of an outstanding debt by a customer in South East Asia from a credit in the respective foreign currency, they had to face their claim dramatically losing value, because the exchange rate broke down. If the creditor ran into debts vis-à-vis his own bank, not only he himself, but also his bank got into massive trouble. Other banks, observing what was going on, recalled their credits. This is how several South East Asian currencies were hit by a spiral of currency devaluation at an expeditious speed. One of the consequences was the collapse of quite a number of banks. Another consequence was that speculators who had wagered on a devaluation of these currencies were able to bag the profits. They had sold great amounts of the currency at the old and higher price in forward transactions without actually owning them. Later they were able to stock up their supply of the currency at a much lower exchange rate and fulfill their contracts.

The South-East-Asian currency and bank crisis was by no means the first of its kind, but it was one of the major crises since 1970 for sure. Such crises are possible in the future as well. They can be triggered by many different reasons. A state, for example, practising inflationary monetary politics, may undermine the confidence in its own currency. A state may also achieve this by piling up foreign debt and thus turn insolvent in foreign currencies – and the world has seen this happen in many cases (as in the GDR during the late 1980's, shortly before the German reunification). Also a deficit in the foreign trade balance – more imports than exports – may lead to a devaluation of a state's currency. In these cases, the responsibility is mainly with the government. Additionally, major natural disaster, but also political events and war may have a strong impact on exchange rates. For instance, OPEC under their Saudi-Arabian leadership during the 1970's, put a number of currencies under pressure by means of their strategic foreign policies of exploding oil prices. Several countries, dependent on their oil imports, had to pay a multiple of their former oil account in US dollars.

If a state on the contrary raises the exchange rate of its currency, such action will hardly ever be regarded as a crisis by the international community. An example here is the continuous revaluation of the Deutsche Mark between 1970 and the end of the 1990's. Currency appreciation makes exports more expensive and reduces one's own imports in price. With regard to their own export-dependent jobs, China and Japan presently hold down their currencies deliberately and artificially: their central banks purchase mainly US dollars, and Euros as well, which they are accumulating in their monetary reserves. This procedure is backing the exchange rate of the US dollar. On the other hand, the export surplus of the Chinese and Japanese trade balance yields an equivalent of growing monetary reserves which – in their enormous amount – at least for the time being! – prove mostly useless. "For the time being" includes future risks and dangers.

Fluctuations in exchange rates as well as currency crises are by far not the only possible agents for critical and crisis-like developments and occurrences within the global financial markets. All the same they caused manifold speculations since the 1970's.

Hedge and Private Equity Funds worldwide on the rise

In the 1970's, nobody talked about hedge funds and financial derivatives. But the dollar-anchored worldwide system of fixed currency exchange rates ceased to exist, and currency speculations became of great importance. At the same time, national financial markets became increasingly globalized and branched. Today, internationally operating hedge funds are in command of far more than 1,000 billion dollars. The great majority of the more than 9,000 hedge funds have established their legal residence on tiny little islands, sovereign little states of their own, but without any efficient or functioning tax administration or financial supervisory authority. Most of their managers – including real estate and private equity companies – do not even have to answer a stockholders' meeting or a supervisory board at the top. The managers of these new financial institutions are just as free to pursue their speculating and personal profit as were the Condottieri in medieval Italy.
The large banks participate in the game in many different ways. They grant huge loans to the fund managers who thereby multiply the volumes of their hedge funds – and their risks as well. In addition, many banks establish their own hedge funds, and many hedge fund managers have served as traders in a bank before. Bank and fund managers tend to invent new speculative financial derivatives every day, and neither the private customer nor the bank's own executive board can adequately estimate the risks. The breakdown of Enron has proved this in a remarkable way.

In the 1990's we witnessed the successfully speculating fund manager George Soros compelling the British government to devaluate the sterling currency. We have witnessed the large hedge fund LTCM having to be saved from bankruptcy by the American Federal Reserve System, preventing it from dragging along a number of commercial banks. At the end of that very same decade, we have witnessed the international financial managers' "New Economy" psychosis – and subsequently the disclosure of many indecent and criminal methods even within a number of highly esteemed and distinguished companies. And just previous to that we not only went through the South East Asian currency and bank crisis, but also experienced several cases in Brazil, Argentina and Russia.

These cases allude to global risks. Psychoses and domino reactions among the trans-nationally networked financial managers may easily multiply and extend failures on a

worldwide scale. However, only the minority of all Ministers of Finance in our world do have the power to judge and restrain the financial risks pertaining to their own national economies.

German Interests

The economic risks within the globalized financial markets have an enormous effect on Germany. There are more and more cases of single private equity funds, or their managers, acting as investors and acquiring manufacturing companies and merging or even exploiting them. This happens to many medium-sized enterprises, whose owners disagree about how to continue with the inherited family business and rather prefer to go for cash. But, even large stock corporations may be hit, as was the case with Blackstone engaging in Deutsche Telekom. In order to avoid a hostile takeover, the stock corporations put themselves under pressure to raise and keep a high price of their shares by a number of tricks and business stratagems – not seldom at a long-range disadvantage to their own company. As immediate profit is the exclusive motive of the so-called 'investors', research and development, as well as the long-term expansion of the cornered companies – as well as their jobs! – just 'go to the dogs'. The key-word 'shareholder value' has obscured this context only for a short period of time, and Franz Müntefering, Germany's Minister of Labor, coined his slogan about 'locusts' definitely not out of the blue.

Nowadays, the separation between banks on the one hand and investment funds, hedge funds, private equity funds, real estate investment trusts, umbrella funds, etc. on the other hand is melting away among international private financial institutions. Meanwhile, the risky speculative attitudes of many finance managers and traders have developed into a major danger for banks and insurance companies. But also pension funds, some non-profit foundations, and even municipal authorities yield to the temptation of participating in highly speculative transactions.

A graphic example of financial globalization is offered by the largest German banking institution: The Deutsche Bank, most important financier of German industrial enterprises during the previous century, realizes these days the far biggest part of its profits from investment banking in London and New York. The Deutsche Bank shares are in foreign ownership by the majority. A half century ago, Federal Chancellor Konrad Adenauer felt in a position to entrust the head of Deutsche Bank with the representation of the German interests during the London negotiations about German pre-war debts. Only a quarter century later, we 'invented' the role of a mountain guide ("sherpa") for each participating country when it came to organize the first world economic summit in the face of a world recession, set off by OPEC; and our representative once again was CEO of this same bank. Whether in the first case it was Hermann Josef Abs, or in the second case Wilfried Guth: in both cases the respective Federal Government could count on the patriotic sense of duty of the Deutsche Bank. Meanwhile, Deutsche Bank has globalized itself. If there was a trans-national case of emergency today, whose advice and help could the present Federal Government rely on?

Today, the German economy lacks several larger private banks, operating internationally and highly esteemed abroad, but deeply rooted within our own national economy. The consolidation of our cleft bank system did not keep pace with the growth of our economy. Compared to, for instance, France or Spain, Holland or Austria, not to speak of the United States and the UK, we are more at the mercy of the financial globalization than is inevitable. Here lies a task for the associations and the executives of our savings banks, state banks, and cooperative banks. Germany enjoys a rather healthy private savings rate – very unlike the US with a private savings rate of zero! But our large enterprises are greatly dependent on foreign

investments, while our medium-sized enterprises suffer from credit tightening, effected through the so-called "Basel-II-Rules". (June 26, 2004: New rules were agreed among the G-10-countries about the balance between bank equity capital and the allocation of credits, in order to minimize the risks.) Nevertheless, the local German savings banks enjoy a solid and reliable image in the eyes of the public, and rightly so, because every single German savings bank is more efficiently controlled and supervised than are the vastly larger international funds with their headquarters in the Caribbean.

Supervision of banks and securities is necessarily a governmental matter, while the business of financing private enterprises should lie in the hands of banks that are neither governmental nor governmentally restricted. Instead of a few large banks, we have all too many very small banking institutions (including the savings banks, credit unions, people's banks and cooperative banks), some of them having been cornered by foreign mega-banks. Here, intra-German mergers would be desirable and to be preferred. Competent and responsible initiatives are needed.

The United States of America – a special case of deficit: For how long can this go on?

The enormous American budget deficit has been accumulating since the beginning of the new century. Since private households are saving almost nothing, high deficits are continuing in the American trade balances. Both deficits are covered by foreign trade partners of the US, thus leading the American economy into debt to foreign countries. The US dollar obligations vis-à-vis most of the world's central banks and vis-à-vis foreign private financial institutions, firms, and private individuals has reached a gross amount of 7,700 billion dollars. This sum equals about two thirds of the yearly national product of the United States, and if you subtract the amount of American outstanding claims for payment to foreign countries, there remains a net debt of a quarter of the US national product. Just because most of the foreign central banks and other creditors from abroad invest their dollars back in USA, and because foreign companies and private individuals do the same with their own surplus, there is an enormous capital import into the United States and a high liquidity increase within the two Anglo-Saxon financial centers. America's yearly net capital import (capital exports subtracted) equals around seven per cent of the American national product. To this degree, the American national economy – including their investment bankers and fund managers – lives on the surplus of the outside world. All of these circumstances lead to the one question: For how long will the US be able to afford this level of debt? Or, on the other side: For how long are the foreign partners of the US able and willing to afford their capital exports to the US?

The answer is comprised of two opposed elements: As long as the outside world keeps up its great confidence in the political and economic leadership and executive strength of the United States, the mechanism will work. Still it is unlikely that this process which unilaterally favors America, will last forever. New failures of American foreign policy at the expense of foreign confidence, for instance, can not be ruled out. This is why more and more people raise their voices in the US and abroad, urging and advising to contain the American debt policy.

Meanwhile, China alone holds 1,000 billion US dollars in its relentlessly growing currency reserve. It cannot be excluded that henceforth this money will not only be invested in American treasury bonds, but may be utilized in quite different investments. Anyway, an argument about the bilateral trade deficit of the US towards China will not stop the continuing devaluation tendency of the US dollar in relation to the Chinese renminbi – or in relation to the Euro. If we Europeans had not joined in creating a supranational Euro-zone – the Euro being second among the most important currencies of the world today – international finance

managers would enjoy speculating with all our former small European currencies. The Euro, however, proves a stable currency, slightly tending towards an upward revaluation due to the weakness of the dollar. Neither the stability of the Euro, nor, more than ever, the great economic rise of China, India and the oil exporting countries will save America from the necessity of improving its foreign trade balance. Today, the situation of the dollar gives reason to manifold trans-national speculations, especially by the highly speculative hedge funds. America is big and powerful, but at the same time it is not financially and economically invulnerable. The globally networked financial markets as a whole are also very vulnerable. A dramatic weakening of the dollar could lead to an international financial crisis.

The new financial institutions need transparency and supervision

Since the first major currency speculations in the 1970's, an inclination for financial speculation has become manifest in many other fields, too. It is a new game to place high bets on the future price of commodities, of stock, bonds, real estate, and interest. Many traders of investment banks, investment funds, hedge funds et al. have to work at night to be able to see the rates at the far side of the world, where the day is coming to an end when it is just dawning at home. Hand in hand with a rise in speculating we see a loss in decency and ethics. Credit financed takeovers of prosperous enterprises – mainly by private equity funds – are on the daily agenda, with the personal aim of exorbitant self-enrichment. Financial managers act as if they were owners and make decisions about the future of external companies and their employees for their own short-term benefit. Germany has become a target for hostile takeovers – Mannesmann was not unique. The worldwide growth rates of private equity companies range at a multiple of the general economic growth. In this connection we may use the term "Raubtierkapitalismus" – predatory capitalism. German banks also offer their private clients shares in funds, financial derivatives and certificates, whose risks the clients are not capable of estimating themselves.

Inevitably, citizens as well as politicians lack an overview. The globalized financial markets remain opaque, private financial correlations and interdependencies are perceptible to only a few highly-specialized experts. For, as opposed to governmental bank supervision, there is no supervision of hedge funds and their related institutions. Nor are there internationally effective rules.

This statement should not provoke new anxieties, but should be viewed as an appeal to governing bodies to increase the transparency of financial operations and to grant supervisory authorities the possibility of intervening against misuse and prevent irrational risks. It smells of crude mischief if every small savings bank is under governmental control, but at the same time private institutions, which are a hundred times more powerful, may do whatever they want.

It would be highly desirable to abolish the tax-exempt and control-free islands, sovereign or quasi-sovereign states in the Caribbean, or in Europe, or elsewhere, yet there is little prospect of success. Nevertheless, the governments of the large OECD-states could prohibit banks and insurance companies from granting credit to those private financial institutions which register their headquarters on one of those islands in order to evade supervision by their own governments. Moreover, our governments are in the position to limit the borrowing arrangements for hedge funds, private equity funds and others. They could legally compel anybody who offers shares, certificates etc. at home, to publish the risk potential connected with them. In one word: The governments of the large states of the world could set out a basic framework of rules and conditions and supervise their abidance. So far, however, there is no

serious intention to proceed in this direction. It is praiseworthy that Germany has set forth some restrictions, but this alone cannot save us from international financial crises that may result from the agglomeration of risks in the new financial institutions in London and New York.

Financial crises with a trans-national effect can also penetrate into Germany and the Euro-zone. That is why it is in our vital interest to establish supervision for the wildly proliferating and globally operating funds, similar to the supervision of banks, insurance companies, and the securities market. For the time being, nobody can be sure that a single collapse, a single dramatic occurrence, a devastating political development in the region between Gaza and Afghanistan, or a new explosion of oil prices, will not lead to a new financial crisis.

Some of the financial managers have conceded indirectly, that, because of the new financial institutions, serious anxieties seem realistic. This is why the Managed Funds Association in Washington and the Corrigan Report (named after an executive board member of Goldman Sachs in New York) have established certain "sound practices" since 2005. Both initiatives merely advise that the funds trade sector should regulate itself. The American government has established the "President's Working Group on Financial Markets"; the British financial control authorities have delivered a "Green Paper" on hedge funds. Following a German initiative, a panel for financial stability was founded in 1999 among the Ministers of Finance and Central Bank governors of the G8-states. However, no resounding success has been achieved yet, and that is why the German Federal Chancellor and the Minister of Finance are right to put the problem on the international agenda.

But we will see the governments in Washington and London oppose this new initiative, because they consider the profits of the investment bankers and fund managers as their national economic interest. Presumably, they would take action only after the horse has bolted. All the more the German Federal Government should display persistency. Just like the global sea and air traffic are subject to strict security and traffic rules, global capital movements need regulation to avoid catastrophes. This is an act of preventive rationality – to say nothing of decency and ethics.

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INTERACTION COUNCIL

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InterAction Council in 2008

The InterAction Council was established in 1983 as an independent international organisation to mobilise the experience, energy and international contacts of a group of statesmen who have held the highest office in their own countries. Council members jointly develop recommendations on, and practical solutions for the political, economic and social problems confronting humanity.

The Council is unique in bringing together on a regular basis and in an informal setting more than thirty former heads of state or government – serving in their individual capacities, the Council aims at fostering international co-operation and action in three principal areas:

- Peace and security
- Revitalisation of the world economy
- The nexus of development, population and environment, universal ethics

The Council selects from these broad areas specific issues and develops proposals for action. The Council and its members then communicate these proposals directly to government leaders and other national decision-makers, heads of international organisations and influential individuals throughout the world.

ANNUAL PLENARY SESSIONS

Since 1983, the Council has held Plenary Sessions in the following cities:

1.	Vienna, Austria	November 1983
2.	Brioni, Yugoslavia	May 1984
3.	Paris, France	April 1985
4.	Tokyo/Hakone, Japan	April 1986
5.	Kuala Lumpur, Malaysia	April 1987
6.	Moscow, Union of Soviet Socialist Republics	May 1988
7.	Washington D.C./Westfields, VA, United States	May 1989
8.	Seoul, Republic of Korea	May 1990
9.	Prague, Czech and Slovak Federal Republic	May/June 1991
10.	Querétaro, Mexico	May 1992
11.	Shanghai, People's Republic of China	May 1993
12.	Dresden, Federal Republic of Germany	June 1994
13.	Tokyo, Japan	May 1995
14.	Vancouver, Canada	May 1996
15.	Noordwijk, the Netherlands	June 1997
16.	Rio de Janeiro, Brazil	April 1998
17.	Cairo, Egypt	May 1999
18.	Helsinki, Finland	June 2000
19.	Awaji, Japan	May 2001
20.	Berlin, Germany	June 2002
21.	Moscow, Russia	June 2003
22.	Salzburg, Austria	July 2004
23.	Stanford University/ San Francisco, U. S. A.	June 2005
24.	Amman, Jordan	May 2006
25.	Vienna, Austria	May 2007
26.	Stockholm, Sweden	June 2008

HIGH-LEVEL EXPERT GROUP MEETINGS

In the elaboration of its substantive proposals, the Council draws on the advice of high-level experts. They participate in ad hoc groups convened to address specific issues. Such groups are always chaired by a Council member.

The following ad hoc groups have been convened by the InterAction Council:

Monetary, Financial and Debt Issues
Chaired by Helmut Schmidt(May 1984)
Increased Assistance to Least Developed Countries
Chaired by Ola Ullsten (December 1984)
Military Expenditures by Developing Countries
Chaired by Olusegun Obasanjo (March 1985)
Nuclear Armaments and Arms Control Issues
Chaired by Jacques Chaban-Delmas (May 1985)
Interrelationship between Population, Environment and Development
Chaired by Takeo Fukuda (December 1985)
Unemployment
Chaired by Jacques Chaban-Delmas (December 1985)
Arms Control
Chaired by Olusegun Obasanjo (February 1987)
Consultative Meeting with Spiritual Leaders on Peace, Development, Population and the Environment
Chaired by Takeo Fukuda (March 1987)
International Debt Questions
Chaired by Kurt Furgler (September 1987)
Global Deforestation Trends
Chaired by Ola Ullsten (January 1988)
Ecology and Energy Options
Chaired by Pierre Elliott Trudeau (April 1989)
Ecology and the Global Economy
Chaired by Miguel de la Madrid Hurtado (February 1990)
Global Interdependence and National Sovereignty
Chaired by Maria de Lourdes Pintasilgo (March 1990)
Economies in Transformation: Limitations and Potential of the Transition Process
Chaired by Pierre Elliott Trudeau (April 1991)
The Role of Central Banks in Globalized Financial Markets
Chaired by Valéry Giscard d'Estaing (April 1991)
The Search for Global Order: The Problems of Survival
Chaired by Helmut Schmidt (January 1992)
Crisis and Change in Latin America
Chaired by Maria de Lourdes Pintasilgo (February 1992)
Bringing Africa Back to the Mainstream of the International System
Chaired by Lord Callaghan of Cardiff (January 1993)
The Lessons of the German Unification Process for Korea
Chaired by Helmut Schmidt (February 1993)
The Future Role of the Global Multilateral Organisations
Chaired by Andries van Agt (May 1994)
The Challenge to Balance Population Growth with Food Supply
Chaired by Malcolm Fraser (April 1995)
In Search of Global Ethical Standards
Chaired by Helmut Schmidt (March 1996)
To Create a Stable International Financial System
Chaired by Kurt Furgler (March 1996)
Managing Change – Globalization and Winners and Losers
Chaired by Lord Callaghan of Cardiff (March 1997)
What should be the Elements of a Universal Declaration of Human Obligations
Chaired by Helmut Schmidt (April 1997)
Media and Politics
Chaired by Andries van Agt (April 1997)
Balance and Perspective of the Political, Economic and Social Situation in Latin America: Progress, Difficulties and Challenges
Chaired by Miguel de la Madrid Hurtado (February 1998)
Broader Dissemination of the Universal Declaration of Human Responsibilities
Chaired by Malcolm Fraser (March 1998)
The Insecurity of International Money
Chaired by Helmut Schmidt and Malcolm Fraser (April 1999)
The Religious Implications of the Middle East Peace Process
Chaired by George Vassiliou (April/May 1999)
Future of Russia and Her Relationship with European and Asian Neighbors and the United States
Chaired by Kalevi Sorsa (April 2000)
Enlightened Leadership and Responsibility
Co-chaired by Helmut Schmidt and Abdel Salam Majali (May 2000)
East Asia and the Pacific in the 21st Century: Geopolitical and Economic Dimension
Co-chaired by Malcolm Fraser and Shin Hyon-Hwak (March 2001)
Pluralism and Global Governance
Chaired by Malcolm Fraser (April 2001)
The Future Evolution of the European Union – And Its Future Political, Military and Economic Roles
Chaired by Helmut Schmidt (April 2002)
International Humanitarian Law, Humanitarian Crises and Military Intervention
Chaired by Malcolm Fraser (April 2002)
Meeting of Political and Religious Leaders "Bridging the Divide"
Chaired by Malcolm Fraser (March 2003)
Unilateralism and Collective Responsibility
Chaired by Malcolm Fraser (June 2003)
Are We Meeting Our Responsibility to Children?
Chaired by Malcolm Fraser (March 2004)
Justifiable Cases of Military Intervention
Chaired by Malcolm Fraser (July 2004)
Nuclear Disarmament and Small Arms Trade
Chaired by Malcolm Fraser (March 2005)
Human Rights and Human Responsibilities in the Age of Terrorism
Chaired by Malcolm Fraser (April 2005)
The Islamic World and the West
Chaired by Ingvar Carlsson and Abdel Salam Majali (April 2006)
World Religions as a Factor in World Politics
Chaired by Ingvar Carlsson (May 2007)
Restoring International Law: Legal, Political and Human Dimensions (June 2008)
Managing International Financial Markets (June 2008)

Full texts of the communiqué and the reports on these meetings are accessible at
http://www.interactioncouncil.org

The InterAction Council has received financial support from both governmental and private sources.

MEMBERS

Takeo Fukuda 1905-1995
Prime Minister of Japan
(1976-1978)
Founder

Helmut Schmidt
Chancellor of the Federal Republic of Germany
(1974-1982)
Honorary Chairman

Malcolm Fraser
Prime Minister of the Commonwealth of Australia
(1975-1983)
Honorary Chairman

Ingvar Carlsson
Prime Minister of the Kingdom of Sweden
(1986-1991, 1994-1996)
Co-Chairman

Jean Chrétien
Prime Minister of Canada
(1993-2003)
Co-Chairman

Andreas van Agt
Prime Minister of the Kingdom of the Netherlands
(1977-1982)

Esko Aho
Prime Minister of the Republic of Finland
(1991-1995)

James Bolger
Prime Minister of New Zealand
(1990-1997)

Gro Harlem Brundtland
Prime Minister of Norway
(1981, 1986-1989, 1990-96)

Jimmy Carter
President of the United States of America
(1977-1981)

Carlo Azeglio Ciampi
Prime Minister of Italy (1993-1994)
President of Italy (1999-2006)

William Jefferson Clinton
President of the United States of America
(1993-2001)

Vigdís Finnbogadóttir
President of the Republic of Iceland
(1980-1996)

Valéry Giscard d'Estaing
President of the French Republic
(1974-1981)

Felipe González Márquez
Prime Minister of the Kingdom of Spain
(1982-1996)

Yoshiro Mori
Prime Minister of Japan
(2000-2001)

Bacharuddin Jusuf Habibie
President of the Republic of Indonesia
(1998-1999)

Lee Hong-Koo
Prime Minister of the Republic of Korea
(1994-1995)

Lee Kuan Yew
Prime Minister of the Republic of Singapore
(1959-1990)

Abdul Salam Majali
Prime Minister of the Hashemite Kingdom of Jordan
(1993-1995, 1997-1998)

John Major
Prime Minister of the United Kingdom of Great Britain and Northern Ireland (1990-1997)

Nelson Mandela
President of the Republic of South Africa
(1996-2000)

Ketumile Masire
President of the Republic of Botswana
(1980-1998)

Benjamin William Mkapa
President of Tanzania
(1995-2005)

Olusegun Aremu Okikiola Obasanjo
President of Nigeria
(1976-79, 1999-2007)

Andrés Pastrana
President of the Republic of Colombia
(1998-2002)

Percival Noel James Patterson
Prime Minister of Jamaica
(1992-2006)

Yevgeny M. Primakov
Prime Minister of the Russian Federation
(1998-1999)

Jerry John Rawlings
Head of State, the Republic of Ghana
(1986-2000)

Michel Rocard
Prime Minister of the French Republic
(1988-1991)

José Sarney
President of the Federative Republic of Brazil
(1985-1990)

Konstantinos G. Simitis
Prime Minister of Hellenic Republic
(1996-2004)

Hanna Suchocka
Prime Minister of the Republic of Poland
(1992-1993)

George Vassiliou
President of the Republic of Cyprus
(1988-1993)

Franz Vranitzky
Chancellor of the Republic of Austria
(1994-1999)

Richard von Weizsäcker
President of the Federal Republic of Germany
(1984-1994)

Ernesto Zedillo Ponce de Léon
President of the United Mexican States
(1994-1999)

MEMBERS ON LEAVE

Oscar Arias Sanchez
President of the Republic of Costa Rica
(1986-1990, 2006-)

Shimon Peres
President of the State of Israel
(2007-)

POSTMORTEM MEMBERS

Lord Callaghan of Cardiff 1912-2005
Prime Minister of the United Kingdom of Great Britain and Northern Ireland (1976-1979)

Kiichi Miyazawa 1919-2007
Prime Minister of Japan
(1991-1993)
Co-Chairman

Misael Pastrana Borrero 1923-1997
President of the Republic of Colombia
(1970-1974)

Maria de Lourdes Pintasilgo 1930-2004
Prime Minister of the Portuguese Republic
(1979-1980)

Shin Hyon Hwak 1920-2007
Prime Minister of the Republic of Korea
(1979-1980)

Kalevi Sorsa 1930-2004
Prime Minister of the Republic of Finland
(1972-1975, 1977-1979, 1982-1987)

Pierre Elliott Trudeau 1919-2000
Prime Minister of Canada
(1968-1979, 1980-1984)

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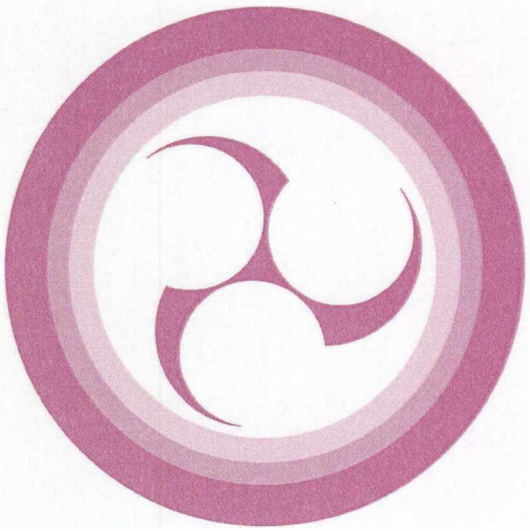

INTERACTION COUNCIL

The InterAction Council and its First 25 Years

www.interactioncouncil.org

The InterAction Council and its First 25 Years

The InterAction Council (the "Council") was established in 1983 under the initiative of former Japanese Prime Minister Takeo Fukuda. The idea was that a group of former world leaders would be free to reflect on their experiences, and look beyond the immediacy of current issues and the limitation of national interests, to focus on the long term structural factors driving the global agenda. At its inaugurating session during the height of the Cold War, the Council identified peace & disarmament, world economic revitalization & development, and the nexus of development, environment and population as priority issues to address. Later, the concept of universal ethics was added.

After a quarter-century of annually uniting thinkers and practitioners to come up with policy recommendations to the world at large, and specifically incumbent leaders, the Council has now developed into a "global culture". Indeed, the collective wisdom of our former leaders has proven very useful, over the past quarter-century, in solving some of the global problems.

The Council's activities over the past twenty-five years may be roughly divided into the Cold War era (1983-90), the post-Cold War era (1991-2000) and the era most prominently featured by War on Terror and unilateralism (2001-2007). Throughout this span of time, the Council has always been ahead of the conventional thoughts prevailing among policy makers of the time. Many of the policy recommendations proved the foresightedness of the group, some of which were realized afterwards, though, of course, the Council alone does not claim credit for them.

Please see http://www.interactioncouncil.org for details about the InterAction Council.

The Cold-war era

During the height of the Cold-War era, when many dreaded a nuclear war nightmare turning into reality, Helmut Schmidt chaired the newly created InterAction Council, leading the group to make many innovative, future-oriented and epoch-making policy recommendations. Representative ones include the following.

- In 1983-84, the Council urged the leaders of the superpowers, the United States and the then Soviet Union, who had not met over the previous 7 years, to at least meet, maintain communication and come to a common interpretation on the Anti-Ballistic Missile Treaty (ABM) and the Nuclear Non-Proliferation Treaty (NPT). The then US President Ronald Reagan and USSR General Secretary Mikhail Gorbachev finally met in November 1985 in Geneva, where they issued a Communiqué, committing to "no nuclear wars."

- From the outset, the Council has been pointedly advocating disarmament, particularly the abolishment of nuclear arsenals. Throughout the '80s Council stressed the adverse effect of increased military spending on development in developing countries, proposing to link ODA with the level of military spending in recipient countries.

- Another appeal assiduously made in the '80s was to end the grossly unjust Apartheid in South Africa, which was dismantled in 1994.

- The Council held four expert group meetings during the latter half of the 1980s ('87, '88, '89 and '90) related to the environment and ecology, warning of the danger of "greenhouse effects" and urging that an international conference be convened on global ecological issues to set target values for the emission of CO2, among others. This led to the Rio Summit in 1992 and eventually to the Kyoto Protocol of 1998.

- The Council repeatedly endorsed, in the late 1980s, the creation of a European central bank system and a single European currency. The European Central Bank was created in 1998 and the Euro was introduced in 2002.

- The Council's greatest foresightedness was to take up the role of religions in our world and the need for a universal ethical standard. During the height of the Cold War, when religion was regarded as a non-factor in world politics, the Council convened a meeting, in 1987, with religious leaders in Rome, Italy. It was the first dialogue of this kind in history. They identified the ethical standards shared by all major religions. In the secular age of the 1980s, that was prone to forget religious factors, the Council was seized with the potential unity that religions could achieve through dialogue, and with the equally large potential for extremism and division they could spawn. In 2001, the disaster of September 11 shocked the world into the realization that a clash of religious civilizations could be real. The religious schisms which the Council began to examine in the 1980s came to preoccupy decision makers and theologians alike in the new century and similar meetings have proliferated.

Post Cold-war era

During the first half of the 1990s, the decade of localized wars and chaos following the collapse of the Soviet Union, the Council continued to be led by Helmut Schmidt. The chair shifted to Pierre Trudeau (1996), Andries van Agt (1997) and then to Malcolm Fraser (1998-2005) and Kiichi Miyazawa (1998-2007) as Co-Chairmen. In the first half of the decade, the main focus was on unstable geopolitics in the wake of the collapse of the Soviet Union, and financial markets under the rapidly spreading globalization. Malcolm Fraser shifted the focus increasingly on responsibilities – our obligations under international law, our duties toward the deprived, and our obligations not to forget justice as we confront terror.

- Already in 1991, the Council warned of the implicit dangers of deregulating and globalizing financial markets, emphasizing that technological progress and globalization would raise the systemic risk. The Council warned in 1994 that if something went wrong in these markets, a domino effect would start; a perceptive warning of what indeed happened in 1997-98. It urged, among others, central banks and other regulators to enhance their capacity to deal with crises through coordinated regulation and to take more stringent capital requirements for lenders. Again in 1997, the Council warned of the dangers of the serious dislocation due to the scale of international flows, the impact of speculative moves and the pace with which these moves spread. A major global financial crisis followed in the fall of that year. And the world is having to witness in 2007-08 another domino effect in globalized financial markets. In 1999 the Council asserted that political leaders had the responsibility to understand risks and take more prudent and effective measures.

- Deeply concerned with the constitutional crisis that left former Yugoslavia with no head of state, the Council, in 1991, warned that every effort should be made to avert an unnecessary tragedy and avoid bloodshed. It called for CSCE countries to apply all possible means to Yugoslavia immediately and to establish an independent commission to evaluate the situation. The world had to witness the outbreak of a series of wars on the Balkan Peninsula two years later.

- In 1993, the Council recommended a "six party formula"– North Korea, South Korea, China, Japan, Russia and the United States (similar to the 2+4 formula applied in resolving the international dimensions of German unification) for the solution of the Korean Peninsula problem. This was materialized in 2003.

- In 1996-97, with its concern that globalization of the world economy was matched by globalization of many of the world's problems, the Council declared that globalization also applied to the necessity for global ethical standards, since without ethics and self-restraint, humankind would revert to the jungle. It identified the "Golden Rule" as an ethical standard common to all major religions that make a collective life possible. And the Council built on the earlier work of the Rome Statement by codifying the assumption of a common ethical base in a "Universal Declaration of Human Responsibilities". While the declaration has not attained the initial objective of being adopted at the UN as a twin document of the Human Rights Declaration, it has been broadly discussed all over the world and has become widely acclaimed as an important torchlight in the 21st century.

- In 1996-98, the Council appealed several times to the international community to criticize the then Nigerian president and demand the release of all the unjustly held political offenders, including Olusegun Obasanjo, a Council member. Although some tragically never saw the light of the outside world, Obasanjo was released and re-elected as President of Nigeria in 1999.

- In 1999, the Council looked into the complicity of the religious implications of the Middle East Peace Process, which had stalled. It stressed that the genesis of the Middle East and other conflicts lies not in a religious but in a territorial-political dispute, and that all groups in the conflicts have used religion to enhance the legitimacy of their territorial-political claims. It declared that to resolve a conflict, both sides must understand that it is not possible to change the world by violence. It stressed the importance of tolerance, respect and dialogue, which had to stem from knowledge penetrating to all levels of society. The Council asserted that peace must be permanent, not provisional; provisional peace could be imposed by the strong over the weak, but such peace could not last. A lasting peace was not a zero-sum game but a win-win situation.

- In the final year of the 20th century, the Council envisioned responsible and enlightened leadership in the new century. Key elements were identified, such as the determination to change society in a way that would benefit society as a whole and to provide accountability and transparency in decision-making. A major challenge to leaders was that, while the world's problems were global, leadership remained national, thus requiring them to demonstrate to their constituents that global problems had significant national impacts. This challenge was to be made abundantly clear in the 21st century.

The Era of War on Terror and Unilateralism

At the dawn of the 21st century, 9.11 abruptly changed the world or, more precisely, the US perception of the world. It pushed to the extreme the US' unilateral tendency, which had already been creating an unstable political structure and making international interdependence asymmetrical. The Wars on Terror and US Unilateralism were most predominantly featured in this era. The InterAction Council in this period was first led by Malcolm Fraser with Kiichi Miyazawa until 2005 and thereafter by Ingvar Carlsson. Abdelsalam Majali assisted Carlsson as Organizing Chairman in 2006 and Franz Vranitzky in 2007. Now, Jean Chretien will lead the Coucil together with Ingvar Carlsson.

- In the spring of 2001 (before 9.11), the unilateralism tendency of the new Bush Administration was already obvious. The Council warned that unilateralism would lead to a largely unrestrained exercise of power. Since consultation is absolutely essential, the Council called for better mechanisms and institutions for global governance, including the existing international organizations, regional bodies and civil society. It also urged governments to maximize consultation and cooperation among themselves.

- In 2002, the Council began focusing on international law. While the Council asked the international community to show understanding to the US as it reacted to the 9.11 assaults, it also underscored the dangers of an exclusively unilateral approach in countering terrorism. It emphasized the importance of the UN in preserving the international rule of law. The group also asked the international community to identify and agree upon clear criteria for military intervention on humanitarian grounds. The Council was convinced that an international system founded on the rule of law benefits all states including the most powerful nations; that power needs to obey law in order to be legitimate. In 2003 the group urged UN member states to recognize that real security can best be established through collective action, respect for international institutions and, most crucially, a commitment to peaceful settlement of disputes. The Council will look into how to restore international law in the forthcoming 26th annual meeting to be held in June 2008.

- With the clear proliferation of nuclear arsenals, the Council returned to this ominous problem in 2003 in Moscow, and 2005 in Stanford, California, those being the countries with the most numerous nuclear weapons. They reminded the world that nuclear weapons were illegal, morally unacceptable, militarily unnecessary and extremely dangerous. States were asked to achieve the objectives of Article 6 of the Non-Proliferation Treaty to move towards the complete elimination of all nuclear weapons, with specific recommendations to all the nuclear parties. The Council emphasized the important but under-utilized role of education in disarmament and non-proliferation, as continued ignorance could be catastrophic.

- In 2006 the Council examined, in Jordan, the complicated relations between the Islamic world and the West. It asserted that the world must reaffirm the ethic of humanity, reverence for all life, mutual respect, tolerance, and understanding as the basis for all human interaction, be it among individuals, societies or nations. The Council again urged the world to engage in a dialogue among religions to capitalize on commonalities rather than exploit differences. That would foster multi-faceted discussions and understandings between the West and the Muslim world on issues of faith, culture and the sharing of resources. The Council reinforced that the ultimate goal was justice and dignity, such that all could enjoy the fruits of a unified human civilization. In order to implement its own recommendation, the Council, in the following year, engaged in a dialogue with theologians and leaders of the world's major religions. The statement made in Jordan was appreciated by the moderate Arab countries as being "fair and impartial" and offers to cooperate with the Council began to come in from the oil producing Arab countries after this specific meeting.

- In 2007, to mark the 25th anniversary of the InterAction Council, a dialogue with leaders of the world's major religions was held on how to restore world religions as a force for peace, justice and ethics. Religious leaders have a significant role to play in harnessing the power of people to face global problems. In order to identify ways to promote peace and solidarity, while preserving cultural diversity and the plurality of faith communities, the Council made a set of recommendations. These include to recognize that the common core ethical norms of all religions is the foundation of global citizenship; to reject the misuse of religion by political leaders and urge religious leaders not to let their faiths be misused for political purposes; and to harness the power of religious movements to meet environmental challenges of respecting life and protecting the Earth for the benefit of future generations. This dialogue, as well as some of the previous ones with religious leaders, will be published by Queens University in Toronto, Canada, in June 2008 under the title "Bridging the Divide: Religious Dialogue and Universal Ethics".

Future Outlook of the InterAction Council, the "Global Culture"

Again, to implement its own recommendation, the InterAction Council will bring in the future generation by establishing the "Young Leadership Forum." Starting this year some 20 bright young men and women from all over the world will be invited to the Council's annual plenary meetings. This has been made possible by the increasing number of governments willing to support the Council's activities. Heretofore, the Government of Japan was the main financier. Now, the Governments of Germany, Korea, and Saudi Arabia, as well as several large foundations, have expressed their commitment to assist the Council's activities. This is a positive proof that the Council, after a quarter of a century, is now recognized as a "Global Culture."

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INTERACTION COUNCIL

Schedule
Young Leadership Forum 2008
27 June 2008, Rönneberga, Stockholm, Sweden
Facilitators: Tom Axworthy, Ahmad Moussalli, Tu Weiming

Responsibility in the 21st Century

One of the main achievements of the InterAction Council was to draft the 1997 Universal Declaration of Human Responsibilities (www.interactioncouncil.org).

Since that time, the subject of ethics and responsibilities has only intensified: the decision to go to war in Iraq based on false information, continuing corporate abuses such as the recent conviction of Lord Black, official inquiries into media performance such as the Hutton report in the United Kingdom on the BBC, documented instances of lying in the current US presidential campaign, etc.

Our task will be to assess the issue of responsibility ten years after the Council's draft and to suggest additions and improvements. Having read the Council's Declaration, how do you think it applies to a current issue?

9:00 – 9:15 a.m.	Introductory Remarks
9:15 – 10:30 a.m.	The Nature of Responsibility: Case Study on Truman's Decision to Drop the Bomb led by Tom Axworthy
10:30 – 10:45 a.m.	Coffee Break
10:45 – 12:00 p.m.	Roundtable on Participants' Papers
12:00 – 2:00 p.m.	Working Lunch in Groups on Finance, Law, Media and Politics
2:00 – 4:00 p.m.	Presentation of Group Reports
4:00 – 4:30 p.m.	Wrap-up

INTERACTION COUNCIL
Established in 1983

22 Jun 2008/ tz

List of Participants

Young Leadership Forum 2008

27 June 2008, Rönneberga, Stockholm, Sweden

1. Mr. Essam Abdulmuhsen A. **Albakr,** Executive Vice President & Planning and Development Director, DIGICOM (Saudi Arabia)
2. Mr. Artemis **Artemiou,** Lawyer, Tassos Papadopoulos & Associates (Cyprus)
3. Ms. Katrin **Bennhold**, Correspondent, *International Herald Tribune* and *New York Times* (Germany)
4. Mr. Haethum Samih **Buttikhi**, Assistant General Manager, Retail Banking, Jordan Kuwait Bank (Jordan)
5. Ms. Geeta **Chandran,** Classical Dancer, Choreographer, Dance Activist, Film/Television (India)
6. Mr. Rodrigo d'Araujo **Gabsch**, Diplomatic Advisor to Former President José Sarney (Brazil)
7. Ms. Cynthia L. **Hogle,** Director, Foxhouse Communications (U.S.A.)
8. Mr. Athanasios **Kontogeorgis**, Lawyer (Greece)
9. Mr. Jae-Seung **Lee**, Associate Dean, Professor, Division of International Studies, Korea University (Korea)
10. Ms. Sally Alexandra **Longworth**, Joint Chairperson, *Jus Humanis*: International Human Rights Network (U.K.)
11. Mr. Philip **Lynch**, Director and Principal Solicitor, Human Rights Law Resource Centre (Australia)
12. Mr. Hideki **Makihara,** Member of House of Representatives (Japan)
13. Ms. Carleen **McGuinty**, Policy Officer, World Vision (Canada)
14. Mr. Vitalis **Ortese**, Assistant Project Coordinator, Olusegun Obasanjo Presidential Library (Nigeria)
15. Ms. Najiwa **Shihab**, Anchor/Producer/Reporter, Metro TV (Indonesia)
16. Dr. **Tan** Wu Meng, Medical Officer, Singapore Health Centre (Singapore)
17. Mr. Basil LMB **Waite**, Senator, Government of Jamaica and Executive Chairman of Global Energy Ventures (Jamaica)
18. Ms. Åsa **Westlund**, Member of the European Parliament (Sweden)
19. Mr. Wei **Zheng**, Vice Chair, Department of Risk Management and Insurance, School of Economics, Peking University (China)

InterAction Council

Young Leader's Profile - 2008

Essam Albakr

Executive Vice President, Planning & Development Director, DIGICOM (Saudi Arabia)

Born 1974. BSc Commerce, Major in Operations and Information Management Systems with emphasize on International Business, University of Santa Clara; Co-Founder and Executive Vice President and Planning & Development Director of Digital, Computer Systems Co. Ltd. (DIGICOM) a leading provider of information technology services and business solutions in the Kingdom of Saudi Arabia and in the Middle East; Member of the Saudi Computer Society; Member of the Young Arab Leaders Organization & The Saudi Chapter Establishment Committee; Member of the Young Businessmen Committee, Saudi Chamber of Commerce & Industry.

Personal Introduction

A co-founder and Executive Vice President and Planning & Development Director of Digital Computer Systems Co. Ltd. (DIGICOM). A leading provider of information technology services and business solutions in the Kingdom of Saudi Arabia and in the Middle East. An active member of different organizations namely: Young Business Committee (Saudi Chamber of Commerce), Young Arab Leaders Organization & ((The Saudi Chapter Establishment Committee)); and Saudi Computer Society.

A degree holder in Bachelor of Science in Commerce, Major in Operations and Information Management Systems with emphasize on International Business from University of Santa Clara USA.

Artemis Artemiou

Lawyer, Tassos Papadopoulos & Associates (Cyprus)

Active member of EDON, the youth political organisation of AKEL, in which I have been elected as a member of the central committee 1995-; Member of AKEL 1997-; Board member, Cypriot Student Society of Athens and Pancyprian Student Federation 1997-2003; Representative of the Hellenic Society to the Kent University International Office and to the Foreign Students Committee 2004; President, Cyprus Young Lawyers Committee 2004; Founding member of the bicomunal environmental society "Friends of Nature" (Cyprus) 2004-; Member, National Council Against Discrimination to People with Disabilities and Member, Legal Committee of Cyprus Anti-drugs Council 2005-; Board and Spokesman, athletic club Nea Salamina Ammochostou.

Personal Introduction

«...τον τε μηδέν τώνδε μετέχοντα ουκ απράγμονα, αλλ' αχρείον νομίζομεν...».

("...the citizen who does not participate to the public issues is not only inactive but useless...")

The above extract from Thoukidides, Epitafios Pericleous has been my motto since I studied this "essay" of Thoukidides about democracy in high school. Therefore, I got involved in politics through student syndicalism in high school. Later, as a student of Law School I became an active member of the student society in Athens as well as in England aiming to contribute to the solution of the numerous problems that students face and also struggle to make known abroad the political problem of my country.

I believe that people in democracies have a duty to take part in the decision making process and be united in order to find solutions in the various problems that modern societies face. Especially nowadays, globalisation gives people the opportunity to take democracy to a new level and provides the opportunity to raise our voices and struggle together to confront serious problems such as hunger, pollution of the environment and discrimination.

Katrin Bennhold

Correspondent, *International Herald Tribune* (Germany)

Katrin Bennhold is a correspondent for the International Herald Tribune in Paris. An economist by training, she covers French and European politics for both the IHT and its parent, the *New York Times*. Before joining the newspaper in early 2004, Katrin spent 3 years as international economics writer for *Bloomberg News*. She began her career in journalism as a television presenter for N24 and Bloomberg TV in London, after obtaining her BSc and MSc degrees in economics at the London School of Economics in 1997 and 1998 respectively. She left Germany at the age of 16 to pass her International Baccaleaureate at the United World College in New Mexico and spent one year travelling and working in Latin America before moving back to Europe. Katrin speaks German, English, French and Spanish.

Personal Introduction

I am an accidental journalist. I abandoned a PhD to take a break from academia, earn some money and move in with my boyfriend. But it did not take long to get addicted to a profession that combines endless novelty with a compelling sense of purpose. It is an enormous privilege (and a lot of fun) to write that famous first draft of history. It also comes with enormous responsibility and almost daily ethical conundrums. I have found it helpful that neither my own perspective nor that of my readers is colored by national allegiance. Between a German passport, two British university degrees and my current life in France, my identity is above all European. But my journalism, molded first at Bloomberg and then at the New York Times Group, is rooted in the American tradition.

Haethum Buttikhi

Assistant General Manager, Retail Banking, Jordan Kuwait Bank (Jordan)

Born 1977. Assistant General Manager – Retail Banking for Jordan Kuwait Bank; Commissioning course 963 of the Royal Military Academy-Sandhurst 1996-97; BA Honors in Politics & International Relations – University of Kent at Canterbury 1997 -2000; 2nd Lieutenant Platoon Commander Jordanian Special Forces and Counter Terrorist Battalion 2000-2001; 1st Lieutenant General Intelligence Department 2001- 03; Manager – Corporate Clients Relations / Jordan Kuwait Bank 2003–05; Executive Manager – Private Banking Unit 2005-07; Assistant General Manager – Retail Banking 2007-; Member of the Board of Directors for United Financial Investments - Jordan 2005-; Member of the Board of Director for Brokerage House Securities – UAE 2006–; Member of the Board of Directors for Amad Investment and Real Estate Development Company / Jordan 2008–.

Personal Introduction

'You will never be a leader unless you first learn to follow and be led'

-Tiorio

In order to become a successful leader, at one point one must be a follower. I have and continue to serve under leaders, extracting methods worth adopting as well as extracting methods to avoid. At the end of the day, being a successful leader is empowering your followers to in turn become successsful leaders. A leader must create other leaders to ensure his legacy survives.

Geeta Chandran

Classical dancer, Choreographer, Dance activist, Film/Television (India)

Born 1962. Dance Graduate 1974; BA (Honours), Mathematical Statistics, Lady Shri Ram College, Delhi University 1983; Masters in Communication, Indian Institute of Mass Communications 1984; Founder-President, Natya Vriksha 1990-; Scholar of Peace Fellowship, Dalai Lama Foundation 2000; Millennium Achievers Award 2001; Adjunct Professor, Birla Institute of Technology & Science, Pilani 2004-06; Outstanding artist status by Indian Council for Cultural Relations 2005; Author, SO MANY JOURNEYS 2005; Padmashri national honour from President of India 2007; Social Justice Medal from Chief Justice of India 2007; Member, National Film Certification Board 2008-; Governing Body Member, Kamla Nehru College, Delhi University 2008-; Member, World Dance Alliance 2008.

Personal Introduction

Celebrity artist and star classical dance performer; celebrated also for her Carnatic music, work in television, video and film, theatre, choreography, collaborative performances, dance-education, dance-activism and dance-issue journalism; Media personality and spokesperson for dance and other arts; Founder-President of Natya Vriksha, promoting classical dance and related values among youth; Author of SO MANY JOURNEYS, an intensely personal collection of writings on engagement with Bharatanatyam; Through performances, raises resources for NGOs working on peace, environment and gender equality; Engages in the widest range of dance-related activities: performing, teaching, conducting, singing, collaborating, organizing, writing, inspiring and speaking to new youth audiences.

Rodrigo d'Araujo Gabsch

Diplomatic Advisor to Former President José Sarney (Brazil)

Born 1969. Graduated *magna cum laude* in Law and Social Sciences from the Federal University of Rio de Janeiro 1992; graduated in Diplomacy from the Brazilian Diplomatic Academy (*Rio Branco* Institute) 1994; trainee at the Brazilian Embassy in Asunción, Paraguay 1994; Assistant to the Head of the Division of Transport, Communications and Services of the Brazilian Foreign Ministry, in charge of the telecommunications and bilateral air services desks 1994-98; Assistant to the Head of the Trade Promotion Section of the Consulate General of Brazil in New York, USA 1998-99; Head of the Press Section of the Consulate General of Brazil in New York 1999-2002; Head of Administration at the Brazilian Embassy in Budapest, Hungary 2002-03. Chargé d'Affaires *ad interim*, Brazilian Embassy in Budapest 2002; Head of the Political Section at the Brazilian Embassy in Budapest 2003-05; on a temporary assignment from the Brazilian Foreign Ministry to the Office of the President of the Republic, as Diplomatic Advisor to Former President José Sarney 2005-; Fluent in Portuguese (native), English, French and Spanish.

Personal Introduction

A lawyer and a diplomat by training, I am personally interested in science and technology, in politics and economics and in international affairs. I am cautiously optimistic about humanity's future. Humanity achieved a technological development and the institutional sofistication (democracy, the worst of the regimes except all others, to paraphrase Churchill) that allows it to tackle its most difficult challenges, provided the political will is present.

After twelve years working in the Brazilian Foreign Service, joining the staff of President José Sarney – currently a federal Senator – gave me a rather new perspective on the activities of the legislature and of government in general. I could see how hard and rewarding it can be to achieve consensus, how important a role experience plays in forging it and in finding solutions for our problems. I look forward to listening to the collective voice of experience represented at the InterAction Council, as it discusses the global challenges before us.

Cynthia Hogle

Director, Foxhouse Communications (U.S.A.)

Born 1966. Television Development, Writing, and Production, (Several shows, including: *Roseanne*, *Married... With Children*) 1990-97; Special Assistant to the President, D.A.R.E. America, Worldwide (Drug Abuse Resistance Education) 1997-98; Presidential and Vice Presidential Advance, The White House 1998; Special Assistant to the U.S. Chief of Protocol and Protocol Gift Officer, U.S. Department of State 1998-2000; Harvard University MPA 2000-01; Manager of Individual Giving and Strategic Communications, Citizen Schools 2001-02; Conaculta (Council of Arts and Culture) and studied Spanish at National Autonomous University of Mexico, Mexico 2002-03; Director of External Affairs, Pacific Council on International Policy 2004-06; Principal, Foxhouse Communications (Integrated Marketing and Business Strategies, Consulting) 2006-08.

Personal Introduction

Cynthia L. Hogle has domestic and international experience in public and media relations, development, marketing communications and strategic planning for start-up and growth non-governmental organizations, government and business organizations.

Cynthia's television credits include: *Roseanne*, *Married... With Children,* talk shows, and projects for MGM, Columbia-Tri-Star, and Fox Television. She has written on politics, media and celebrity advocacy. Ms. Hogle has directed external affairs strategies and produced events for the White House, D.A.R.E. America, Worldwide; Citizen Schools, and the Pacific Council on International Policy. Appointed Special Assistant to the United States Chief of Protocol, and Protocol Gift Officer, she traveled as a member of the support staff on President Clinton's official visit to India.

Cynthia was awarded a Fellowship at Conaculta (National Council for the Culture and Art of Mexico), where she directed a rural literacy campaign. She studied Spanish at the National Autonomous University of Mexico, received her BA from California State University, Northridge, and her MPA from Harvard University.

Athanasios Kontogeorgis

Lawyer (Greece)

Born 1979. Master in Public Policy, Kennedy School of Government, Harvard University 2008; MA in European Studies, Jean-Monnet Chair, Panteion University of Political and Social Studies 2004; LLB School of Law, University of Athens 2003; Scientific Advisor for Political and Social Analysis, Institute of Strategic and Development Studies (ISTAME) 2005-06; Campaign Team, Communications Coordinator of Local Chapters, Panhellenic Socialist Movement (PASOK) 2004-06; Lawyer 2003-; Founder and President, Greek European Youth Association (ONEE) 2003-; Board Member, Association for Social Reform (OPEK) 2006-; Elected in various offices in PASOK Youth 2000-03; Member of the 1st International Youth Parliament; Member of the 1st Greek Youth Parliament; Speaks Greek, English, German, Italian some French and Russian.

Personal Introduction

I deeply believe that the world today is in need of "technopoliticians," a new breed of political figures, who will combine acute political awareness and a solid feel for practical approaches and solutions to the socio-economic issues of tomorrow. My keen interest in public affairs led me to volunteer, work in the political sector and pursue academic titles in various fields, especially in Public Policy. What I feel was the greatest benefit of this quest was the exposure to so many different points of view, each with a unique perspective of the issue at hand and its possible handling. And I feel that I will both receive and contribute to the collective experience, mine and that of my fellow young leaders, members of the first Interaction Council's Young Leaders Forum.

Jae-Seung Lee

Professor and Associate Dean, Division of International Studies, Korea University (Korea)

Born 1968. BA Political Science, Seoul National University 1987-91; MA, PhD Political Science, Yale University 1992-98; Visiting Research Fellow, Observatoire Français des Conjonctures Economiques (OFCE), Paris 1995-96; Lecturer, Yale University 1999-2000; Professor, Institute of Foreign Affairs and National Security (IFANS), Ministry of Foreign Affairs and Trade 2001-05; Professor, Division of International Studies, Korea University 2005-08; Associate Dean, Division of International Studies 2008; Managing Director, Korea Energy Forum 2005; Advisor, Presidential Committee on Northeast Asian Cooperation Initiative 2005-08; Advisor, Advisory Board of Presidential Secretariat in Foreign Affairs 2008-.

Personal Introduction

I am currently an Associate Dean and Professor at Korea University, Division of International Studies. Before joining the faculty of Korea University, I served as a professor at the Institute of Foreign Affairs and National Security (IFANS), Ministry of Foreign Affairs and Trade. I received my PhD from Yale University and taught there from 1999-2000. As a scholar in international political economy and a policy advisor to the Korean government, I have worked on the issue of regional cooperation in East Asia and Europe and Asian energy cooperation. I was one of the final drafters of "East Asia Vision Group Report," which was submitted to ASEAN+3 Summit in 2001, as a roadmap for East Asian cooperation. Recently, I have served as an advisor in the *Presidential Committee on Northeast Asian Cooperation Initiative* and *Advisory Board of Presidential Secretariat in Foreign Affairs*. I enjoy piano music, traveling and convivial dining with friendly people.

Sally Alexandra Longworth

Joint Chairperson, *Jus Humanis*: International Human Rights Network (U.K.)

Born 1983. LLB in European Comparative and International Law, University of Sheffield 2002-05; Participant in Quaker United Nations Office International Summer School 2005; Legal Assistant to the Head of the Legal Department, British Red Cross Society 2005-06; Master Student at Lund University studying International Human Rights Law in Conjunction with the Raoul Wallenberg Institute for Human Rights and Humanitarian Law 2006-08; Swedish Team Member, Jessup International Moot Competition 2007; Assistant to the Working Group drafting the Lund Statement on Human Rights Special Procedures 2007; Legal Assistant to the Sesay Defence Team, Special Court for Sierra Leone 2007-08; Joint Chairperson for *Jus Humanis:* International Human Rights Network 2006-08.

Personal Introduction

I am from the UK, but am currently living and studying in Sweden. During my undergraduate I also studied in Melbourne, Australia. I have recently returned from working at the Special Court for Sierra Leone on the RUF Trial Case. At present I am finalising my Master's thesis, an investigation into the obligations on non-State actors under International Humanitarian Law, focusing on the situations in Colombia and Uganda. Besides this, I am Joint Chairperson for a newly established NGO based in Lund, Sweden. I am also working as Country Correspondent for a legal database service specialising in European Community Law.

Philip Lynch

Director and Principal Solicitor, Human Rights Law Resource Centre (Australia)

Born 1976. Bachelor of Laws (Hons) 1999; Convenor of the Amnesty International Australia Legal Network 2000-04; Solicitor, Allens Arthur Robinson 2000–01; Editor of the *Alternative Law Journal* 2001–08; Founding Director of the Homeless Persons' Legal Clinic 2001–05; Board Member of the Federation of Community Legal Centres 2005–; Convenor of the National Association of Community Legal Centres Human Rights Network 2006–; Masters of Public Policy and Management 2006; Member of the Victorian Human Rights Leadership Forum 2007–; Director of the Human Rights Law Resource Centre 2006–.

Personal Introduction

I am the Director and Principal Solicitor of the Human Rights Law Resource Centre. The Centre provides and facilitates legal services to promote the human rights of people experiencing socio-economic disadvantage or poverty. I previously worked as the founding Coordinator of the PILCH Homeless Persons' Legal Clinic in Melbourne which, in 2005, was conferred with the Australian Human Rights Law Award. I have also worked as a commercial litigator with Allens Arthur Robinson.

I am committed to a human rights-based approach to democracy, social inclusion and poverty reduction. This approach aims to ensure that all people have the capacity and equal opportunity to live with dignity and to participate in and contribute to civil, political, economic, social and cultural life.

I am married to Lucy and we have two beautiful daughters, Ruby (2 ½ years) and Annabel (8 months).

Hideki Makihara ("Macky")
Member, House of the Representatives (Japan)
Born in 1971. Lawyer certified in Japan (since 1997) as well as in the State of New York (since 2002); Internship in the Legal Affairs Division of the World Trade Organization in 2001; In-house Legal Advisor to the Ministry of Economy, Trade and Industry 2003-05.

Personal Introduction

I am a first-term member of the House of Representatives. Before joining Parliament, I served as in-house counsel to the Ministry of Economy, Trade and Industry in the area of international trade disputes and negotiations. As a lawyer in Japan and New York State (before joining the government), I was mainly involved in M&A cases and international disputes mainly between corporations.

I have been to approximately 70 countries and spent three years abroad. However, I had only a few chances to attend international conferences and never attended big conference like the InterAction Council. Therefore, I am very excited about this opportunity.

I look forward to meeting great senior leaders as well as young leaders from all over the world.

Carleen McGuinty

Policy and Government Relations Officer, World Vision Canada (Canada)

Born 1981. Honors degree in History, University of Ottawa 2000-04 and Université Libre de Bruxelles 2003; Masters of International Relations, Munk Centre for International Studies, University of Toronto 2004-05; International Development Officer, World University Service of Canada (WUSC) and UNICEF, *Youth In Transition* project, Sri Lanka 2005; Policy and Government Relations Officer, World Vision Canada (Ottawa) 2006-08; Policy Advisor (Child Protection), World Vision Canada (Mississauga) beginning in September 2008.

Personal Introduction

I work in international development policy for one of Canada's largest international development, relief and advocacy organizations, World Vision. I am a passionate advocate for human rights, in particular the rights of children. I recently spent one year in Sri Lanka working with tsunami-affected youth and providing constructive alternatives to participation in the war. While I embrace a grassroots approach for positive and lasting change, I recognize that change cannot occur without the will of our political leaders. As such, I am thrilled to have the opportunity to learn from a group of such vast experience. I hope to contribute in some small way and to return to my life and work in Canada with some concrete action points.

Vitalis Ortese

Assistant Project Coordinator and Secretary of the Centre for Human Security, Olusegun Obasanjo Presidential Library (Nigeria)

BA History/Political Science, Ahmadu Bello University, Zaria, Nigeria; several international fellowships and certificates from institutions, including the World Bank Institute, the Center for Applied Studies in International Negotiations (CASIN) in Geneva and the Theodore Heuss Academie for Leadership, Gummasbach in Germany.

Mr. Ortese works as Assistant Project Coordinator of the Olusegun Obasanjo Presidential Library and Secretary of the Centre for Human Security within the same organization. He was a Programme Officer with the Africa Leadership Forum, where he coordinated and managed their ICT and youth projects. He edited the online newsletter, Akuko!!!, a publication of the Africa Leadership Forum. He is a member of several international development networks (Global Development Network, One World, etc).

He initiated the online project (www.tivnation.com) with the goal of re-projecting the cultural identities of peoples whose identities have been threatened by the negative consequences of globalization. The programme has helped young people in his community cultivate a greater sense of purpose.

Najwa Shihab

News Anchor, Metro TV (Indonesia)

Born 1977. Reporter for RCTI TV, Indonesia 1999-2000; Deputy Secretary General For ASEAN Law Student Associations 1999-2000; Moderator for Metro TV's Indonesian Presidential Debate 2004; Moderator for several Gubernatorial Debates across Indonesia 2007-08; Australian Leadership Awardee 2008-09; Allison Sudradjad Awardee 2008-09.

Personal Introduction

Najwa Shihab anchors Metro TV's primetime evening news and hosts the network's primetime talkshow. During the past eight years, Najwa has covered the country's major stories and interviewed "The Who's Who" in Indonesian politics, including the current President and the previous three Presidents. Her report on 2004 tsunami in Aceh won two awards, namely Best Television Reporter and National Journalism Award from the Indonesian Journalist Association. She was named Highly Commended Current Affairs Presenter by 2007 Asian Television Award. Graduated with a law degree from University of Indonesia, she is now a postgraduate student at Melbourne Law School on a full scholarship from Australian government. She enjoys travelling and reading in her spare time.

Tan Wu Meng

Medical Officer, Singapore General Hospital (Singapore)

Born 1975. BA, Trinity College, University of Cambridge 1996-99; MB/PhD Programme, University of Cambridge 1999-2004; MBBChir, School of Clinical Medicine, University of Cambridge 1999-2004; PhD, MRC Laboratory of Molecular Biology, Cambridge 2001-04; National Service, Singapore Armed Forces 1993-96; President, Cambridge Union Society 2001; Student Member, International Institute of Strategic Studies 2001-03; Best Individual Speaker, World Universities Debating Championships 2003; International Fellow, Agency for Science, Technology & Research 2003-04; Associate Clinical Supervisor, School of Clinical Medicine, University of Cambridge 2004; House Officer, Singapore General Hospital 2005-06; Advisor to Working Group on Health Issues in Singapore, National Youth Forum 2006; Research Fellow, National Cancer Centre 2006-07; Councillor, North West Community Development Council 2006-; Medical Officer and Member, Medical Officer Workgroup, Singapore General Hospital 2007-.

Personal Introduction

My training is in medicine and molecular biology, although my interests extend to public policy and world affairs. Many of the geopolitical trends in the world today will affect us at an intensely personal level, yet individual behaviour in the aggregate can also have significant global impact.

The opportunities and challenges of the 21st Century, if humanity is to prevail, will require co-operation, understanding and camaraderie transcending individual nations.

It is in this spirit of seeking friendship, acquiring new knowledge and learning from the wisdom of Council members, that I am humbled to be Singapore's representative at the inaugural Young Leadership Forum.

Basil Waite

Senator, Government of Jamaica and Executive Chairman, Global Energy Ventures (Jamaica)

Born 1976. University of the West Indies (UWI), Mona, Kingston, Jamaica (Mathematics), 1994-98; President, Guild of Students, University of the West Indies, Mona, 1997-98; President, People's National Party Youth Organization (PNPYO) 1999-2002; Member, Prime Ministerial Advisory Council (PMAC), 2001-03; Harvard University, John F. Kennedy School of Government (Masters in Public Policy), 2003-05; McKinsey and Company, 2005-07; Research Analyst, Office of the Chief Economist, Latin America and the Caribbean, The World Bank 2004-05; Campaign Manager – Local Government Elections, People's National Party 2007; Member, National Campaign Committe, General Election Campaign 2007; Government of Jamaica Senator, 2007–; and Executive Chairman, Global Energy Ventures – an emerging ethanol trading company 2007-.

Personal Introduction

I am a Senator in Jamaica's Parliament and Executive Chairman of Global Energy Ventures, which is an emerging sugarcane-based ethanol trading company located in Kingston, Jamaica. In the Senate, I sit on various committees reviewing the Access to Information Act, the Contractor General's Office, the Integrity Commission, the Public Defender's Office, the Political Ombudsman's Office, the Corruption Prevention Commission, the Director of Public Prosecution, the Privileges Committee, and the Regulation Committee. In addition, I am also responsible for Education, Entertainment and Culture; Youth and Sports; and Rural Development Strategies. Prior to being a Senator, I worked as an Associate in McKinsey & Company's Washington D.C. Office, in the World Bank and also in the Jamaican Government. A Jamaican Issa Scholar, I was President of the People's National Party Youth Organization (PNPYO) . where I provided commentary in national policies; developed policy positions; organized the political party on a national level; represented the government and party nationally and internationally. I also was appointed as a member of the Prime Ministerial Advisory Council.

Åsa Westlund

Member of the European Parliament (Sweden)

Born 1976. Masters degree in Political Science 1995-2000; Vice chairperson of Gothenburg Student Union (FFS) 1998-99; Member of the board of the Swedish National Student Union 2000-01; Elected to various high-ranking positions in the Social democratic party, as well as co-opted member of the national board (2001-03) and party executive (2003) 1995-; Political advisor to the Minister of Education 2001-; Chairperson for the Social Democratic Students of Sweden 2001-03; Member of the Social welfare committee in the municipality of Haninge 2002-04; Substitute member of Stockholm County Council 2002-04; Political advisor to the Social democratic party national board 2003-04; Member of the governmental Committee on Constitutional reform 2004-07; Member of the European parliament and its committee on Environment, Public heath and Food safety as well as its temporary committee on Climate change (2007-) and substitute member of its committee on Development 2004-.

Personal Introduction

I always thought that you as an individual have a moral responsibility to engage yourself in society. Coming from a family without political engagement it was nevertheless a big decision to take when I joined a political party. That decision has since then played a crucial role in my life. Through politics I have been able to develop new skills, meet some of my best friends as well as my beloved husband, meet other interesting people and not the least; I have had the possibility to affect our society to the better. In the future I hope I will be able to do that even more, and I also hope that I will be able to encourage more people to believe that it is possible to change the world.

Wei Zheng

Vice Chair, Department of Risk Management and Insurance, School of Economics, Peking University (China)

Born 1974. Co-founder and Vice Chair of SICA (Students' International Communication Association of Peking University) 1997-98; Assistant Professor, Peking University 1998-2004; Associate Professor at Peking University 2004-; Secretary General of China Center for Insurance and Social Security Research (CCISSR) of Peking University 2003-; Member of the Board of Directors of Insurance Institute of China 2007-; Member of the Youth Committee of China Health Management Association 2007-; Member of the Editorial Board of Asia-Pacific Journal of Risk and Insurance (APJRI) 2004-; Visiting scholar at the University of Wisconsin 1999-2000; Project consultant of UNCTAD 2005-2006.

Personal Introduction

I am Wei Zheng from Peking University of China. In addition to teaching and research as an Associate Professor, I participate in many activities on legislation, hearing and government planning in the field of risk management, insurance and social security. I have been enthusiastic about international communications since I was a student. I believe that promoting mutual understanding is very important for world peace and development. I do hope that the Young Leadership Forum launched by InterAction Council can play a positive and unique role in the field of international communication, with the precious guidance and support from former heads of state and government.