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THE HARD ROAD TO WORLD ORDER

By Richard N. Gardner

“IT was the best of times, it was the worst of times.” What Dickens wrote of the last quarter of the 18th century fits the present period all too well. The quest for a world structure that secures peace, advances human rights and provides the conditions for economic progress—for what is loosely called world order—has never seemed more frustrating but at the same time strangely hopeful.

Certainly the gap has never loomed larger between the objectives and the capacities of the international organizations that were supposed to get mankind on the road to world order. We are witnessing an outbreak of shortsighted nationalism that seems oblivious to the economic, political and moral implications of interdependence. Yet never has there been such widespread recognition by the world’s intellectual leadership of the necessity for coöperation and planning on a truly global basis, beyond country, beyond region, especially beyond social system. Never has there been such an extraordinary growth in the constructive potential of transnational private organizations—not just multinational corporations but international associations of every kind in which like-minded persons around the world weave effective patterns of global action. And never have we seen such an impressive array of ongoing negotiations aimed at the coöperative management of global problems. To familiar phrases like the “population explosion” and the “communications explosion” we should now add the “negotiation explosion.”

What is “worst” about our times for those who wish for rapid progress toward world order is clear enough. The United Nations is very far from being able to discharge the responsibilities assigned by its Charter for the maintenance of international peace and security. The willingness of U.N. members to risk their short-term interests for the good of the community seems at the level of the frontier town in *High Noon*, where the citizens abandoned their lawman as soon as the outlaw was released from jail. If a clear and unambiguous case of aggression came before the Security Council or General Assembly today, there would be little confidence that a majority of members would treat it as such or come to the aid of the victim. The Charter concept of collec-

tive security is obviously dead; even for consent-type "peace-keeping," little progress has been made in devising agreed constitutional and financial arrangements. Nor are the world's principal economic forums in much better shape. In contrast to the accomplishments of happier days, nobody now takes a major issue to ECOSOC, UNCTAD, GATT, IMF or OECD¹ with much hope for a constructive result. Even the European Community threatens to unravel under current economic and political pressures.

In this unhappy state of affairs, few people retain much confidence in the more ambitious strategies for world order that had wide backing a generation ago—"world federalism," "charter review," and "world peace through world law." The consensus on basic values and willingness to entrust vital interests to community judgment clearly do not exist. One need only picture a world constitutional convention including Messrs. Nixon, Brezhnev, Mao, Brandt, Pompidou, Castro, Perón, and Qaddafi, not to mention Mmes. Golda Meir and Indira Gandhi. What rules or procedures for world government could they agree upon?

The same considerations suggest the doubtful utility of holding a Charter review conference. To amend the U.N. Charter requires the approval of two-thirds of the membership, including all of the five Permanent Members. If one examines carefully the attitude of U.N. members to specific proposals, one quickly discovers that the most likely consequence of wholesale revision of the Charter would be to diminish rather than enhance the strength of the organization. As in the case of the U.S. Constitution, we are more likely to make progress by pressing the existing instrument to the outer limits of its potentialities through creative use, seeking amendments only on carefully selected matters where they seem both necessary and capable of adoption by the constitutionally required majority.

Just as world federalism and charter review now seem bankrupt of possibilities, so does the old-fashioned idea of achieving "world peace through world law" by means of a greatly strengthened International Court of Justice. The members of the United Nations seem less willing than ever to entrust vital interests for

¹ Respectively, to give their full names, the Economic and Social Council, the United Nations Conference on Trade and Development, the General Agreement on Tariffs and Trade, the International Monetary Fund, and the Organization for Economic Co-operation and Development.

decision to the 15 men at The Hague, as may be seen from the very few countries that are willing to accept the Court's compulsory jurisdiction without crippling reservations. In the two cases now before the Court—one involving the "cod war" between Iceland and the United Kingdom, the other the French nuclear tests in the Pacific—the "defendant" countries, Iceland and France, have even refused to appear. In part, this reluctance to accept the Court's jurisdiction reflects lack of confidence in the competence and independence of some of its judges, but even if all of them had the intellectual and moral qualities of Solon of Athens the deeper problem would still remain. Nations are reluctant to risk adverse judgments at the hands of third parties they cannot control; moreover, they are reluctant to commit themselves to have their controversies decided according to rules of international law that may be of doubtful legitimacy, incapable of alteration as circumstances change, and uncertain of general enforcement.

If instant world government, Charter review, and a greatly strengthened International Court do not provide the answers, what hope for progress is there? The answer will not satisfy those who seek simple solutions to complex problems, but it comes down essentially to this: The hope for the foreseeable future lies, not in building up a few ambitious central institutions of universal membership and general jurisdiction as was envisaged at the end of the last war, but rather in the much more decentralized, disorderly and pragmatic process of inventing or adapting institutions of limited jurisdiction and selected membership to deal with specific problems on a case-by-case basis, as the necessity for coöperation is perceived by the relevant nations. Such institutions of limited jurisdiction will have a better chance of doing what must be done to make a "rule of law" possible among nations—providing methods for changing the law and enforcing it as it changes and developing the perception of common interests that is the prerequisite for successful coöperation.

In short, the "house of world order" will have to be built from the bottom up rather than from the top down. It will look like a great "booming, buzzing confusion," to use William James' famous description of reality, but an end run around national sovereignty, eroding it piece by piece, will accomplish much more than the old-fashioned frontal assault. Of course, for political as well as administrative reasons, some of these specialized

arrangements should be brought into an appropriate relationship with the central institutions of the U.N. system, but the main thing is that the essential functions be performed.

The question is whether this more modest approach can do the job. Can it really bring mankind into the twenty-first century with reasonable prospects for peace, welfare and human dignity? The argument thus far suggests it better had, for there seems to be no alternative. But the evidence also suggests some grounds for cautious optimism.

II

The hopeful aspect of the present situation is that even as nations resist appeals for "world government" and "the surrender of sovereignty," technological, economic and political interests are forcing them to establish more and more far-reaching arrangements to manage their mutual interdependence. It is instructive to ponder the institutional implications of the negotiations to which nations were already committed before the "energy crisis" preëmpted international attention in the fall of 1973. Although some of these tasks of institution-building may be complicated or postponed by the energy problem, all are now continuing fixtures on the diplomatic agenda:

1. The non-Communist nations are embarked on a long-term negotiation for the reform of *the international monetary system*, aimed at developing a new system of reserves and settlements to replace the dollar standard and at improving the balance-of-payments adjustment process. The accomplishment of these objectives would almost surely require a revitalization of the International Monetary Fund, which would have unprecedented powers to create new international reserves and to influence national decisions on exchange rates and on domestic monetary and fiscal policies. Such a strengthened IMF might be given power to back its decisions by meaningful multilateral sanctions, such as uniform surcharges on the exports of uncoöperative surplus countries and the withholding of multilateral and bilateral credits and reserve facilities from recalcitrant deficit countries.

2. Roughly the same wide group of nations is launched on a parallel effort to rewrite the ground rules for the conduct of *international trade*. Among other things, we will be seeking new rules in the General Agreement on Tariffs and Trade to cover a whole range of hitherto unregulated nontariff barriers. These

will subject countries to an unprecedented degree of international surveillance over up to now sacrosanct "domestic" policies, such as farm price supports, subsidies, and government procurement practices that have transnational effects. New standards are also envisaged to regulate protectionist measures to cope with "market disruption" from imports. To make these new rules of the game meaningful, GATT arrangements for consultation, conciliation and enforcement of its decisions will have to be greatly improved. Moreover, as will be discussed, the energy and food crises have stimulated a new concern about access to raw materials and a clear need for new ground rules on export controls.

3. The trend in recent years has been toward a steady increase in the resources of the *multilateral development and technical assistance* agencies, in contrast to static or declining bilateral efforts. This should enhance the authority of the World Bank, the regional development banks and the U.N. Development Program over the economic policies of rich and poor nations. By the end of this decade, a portion of aid funds may be channeled to international agencies from sources independent of national decision-making—many have proposed some form of "link" between monetary reserve creation and development aid and some arrangement for the payment to international agencies of fees from the exploitation of seabed mineral resources.

4. The next few years should see a continued strengthening of the new global and regional agencies charged with protecting the world's *environment*. In addition to comprehensive monitoring of the earth's air, water and soil and of the effects of pollutants on human health, we can look forward to new procedures to implement the principle of state responsibility for national actions that have transnational environmental consequences, probably including some kind of "international environmental impact statement" procedure by which at least some nations agree to have certain kinds of environmental decisions reviewed by independent scientific authorities. At the same time, international agencies will be given broader powers to promulgate and revise standards limiting air and ocean pollution.

5. We are entering a wholly new phase of international concern and international action on *the population problem*, dramatized by the holding this year of the first World Population Conference to take place at the political level. By the end of this decade, a majority of nations are likely to have explicit popula-

tion policies, many of them designed to achieve zero population growth by a specific target date. These national policies and targets will be established and implemented in most cases with the help of international agencies. Under their auspices, several billions of dollars in national and international resources will be mobilized in fulfillment of a basic human rights objective already proclaimed by the United Nations in General Assembly Resolution 2542 (XXIV)—that every family in the world should be given “the knowledge and means necessary to determine freely and responsibly the number and spacing of their children.”

6. Belatedly, a World Food Conference has been scheduled to deal with the long-neglected problem of assuring sufficient *food supplies* for the world's rapidly growing population. As reserves of food and arable land dwindle under the impact of crop failures and disappointing fish harvests, there is mounting concern about “world food security.” The Conference is likely to result in efforts to expand agricultural productivity, assure the maintenance of adequate food reserves, and food aid.

7. In the 1974 Law of the Sea Conference and beyond—in what may be several years of very difficult negotiations—there should eventually emerge a new international regime governing *the world's oceans*. New law is, all agree, urgently needed on such crucial matters as the territorial sea, passage through international straits, fisheries, the exploitation of the mineral resources of the seabed, the regulation of marine pollution, and the conduct of scientific research. To make these new rules of law meaningful, there will have to be tough provisions to assure compliance as well as to provide for the compulsory settlement of disputes. The regulatory responsibilities of the new oceans agency are likely to exceed those of any existing international organization.

8. As the INTELSAT conference has foreshadowed, and in accordance with responsibilities already lodged in principle in the International Telecommunication Union (ITU) and the United Nations, new rules and institutions will almost certainly be created to regulate emerging *communication technologies*, notably direct broadcasting from satellites. While providing some safeguards against the unwanted intrusion of foreign broadcasts, these arrangements will aim to maximize the potential for using satellite communications to promote trade and economic development as well as world culture and understanding. Ways will very likely be found to give the United Nations and other interna-

tional agencies access to this new technology for both operational and informational purposes. The ITU and other agencies will probably be given new powers to allocate radio frequencies and satellite parking orbits among users.

All these are cases where negotiations are already underway or scheduled for the near future. In addition, one could add two other items that have already been, one might have said, negotiated to death over the years; nonetheless they are so absolutely critical that progress simply must be made—and nations must come to know this.

9. At some point in the years ahead the world will move beyond U.S.-Soviet agreement on strategic weapons, and NATO-Warsaw Pact agreement on some measure of force reduction, to a truly multilateral set of negotiations (comparable to the non-proliferation treaty) designed to limit *conventional weapons*. It seems inevitable that the United Nations and perhaps regional bodies will be given new responsibilities for the administration of these arms control and disarmament measures, including means of verification and enforcement.

10. And finally, despite the constitutional impasse over U.N. *peacekeeping*, there will in practice be increasing resort to U.N. forces to contain local conflicts. The arguments over authorization, financing and operational control will be resolved on a case-by-case basis where the interests of key countries converge, as they have already in the launching of the United Nations Emergency Force in the Middle East. With the United States, the Soviet Union and China each behaving "more like a country and less like a cause," some principles for mutual noninterference in the internal affairs of other countries are likely to be worked out, either bilaterally or under U.N. auspices. A corollary of such agreements will be international peacekeeping arrangements to patrol borders, supervise elections and verify compliance with nonintervention norms.

Does this list read like a decalogue, more convincing as a statement of what nations *ought* to do in the pursuit of their enlightened self-interest than as a prediction of what they actually *will* do? Let the reader who has this impression go back over the ten items. Admittedly, there is not a one of these specialized negotiations that could not be wrecked and brought to nothing by the same forces of shortsighted nationalism that have crippled the central institutions of the United Nations. But is it not a totally

hardheaded prediction that we shall see very substantial changes in the great majority of these areas by the end of the decade?

The reason is simple: for most, perhaps eventually all, of the subjects, failure is simply not an acceptable alternative to decisive coalitions of nations. Felt necessity is often not strong enough to command assent to general principles with unpredictable applications; but it can lead to agreement on specific measures and regulations.

In short, the case-by-case approach can produce some remarkable concessions of "sovereignty" that could not be achieved on an across-the-board basis. The Soviet Union, China and the United States may be unable to agree on the general rules that should cover U.N. peacekeeping in all unspecified future contingencies, but they may well agree on a U.N. peacekeeping force to secure a permanent Middle East settlement that is otherwise satisfactory to them. The same three countries are unlikely to accept the compulsory jurisdiction of the International Court of Justice over all disputes to which they might be parties, but they may very well agree upon effective third-party machinery for compulsory settlement of disputes on the specific subjects dealt with in a new Law of the Sea agreement—where they recognize compelling national interests in getting other nations as well as themselves to comply with the rules. Thus, while we will not see "world government" in the old-fashioned sense of a single all-embracing global authority, key elements of planetary planning and planetary management will come about on those very specific problems where the facts of interdependence force nations, in their enlightened self-interest, to abandon unilateral decision-making in favor of multilateral processes.

III

For the moment, it may seem that the "energy crisis" has operated to reduce the chances of progress on some of these key multilateral action fronts. Certainly it has deferred a new monetary agreement, triggered a series of nationalistic actions affecting trade, contributed to the U.S. Congress balking at the American share for the World Bank's soft loan activity, jeopardized some domestic measures for the environment in the United States and elsewhere, and sharply affected the food balance for countries increasingly dependent on fertilizer. There is no rule in international affairs that things have to get worse before they can get

better; they can just go on getting worse. Even with some roll-back in oil prices, it will require a special effort of coöperation for the industrialized countries to absorb the economic impact of increased oil costs without resorting to beggar-my-neighbor policies. It will take considerable statesmanship to maintain the flow of development assistance to those resource-poor developing countries which have little to offer the industrialized nations in return. And it will require still greater ingenuity to "recycle" a portion of the additional oil revenues back to these countries so that they can realize their minimum development goals.

But if one takes a longer view, it becomes apparent that, far from reducing the practical importance of multilateral agreement on specific subjects, the "energy crisis" has made the existing agenda even more crucial, and in fact added what is in effect a new action item. For some years we have been talking of resource scarcities in terms of physical limits; what is now apparent is that long before any such limits are approached we confront what Lester Brown has called "the emerging global politics of resource scarcity." The problem is not only one of increasing total supplies of scarce materials, but of assuring their fair allocation between countries. Large parts of the world are dependent on food exports from the United States, just as the United States has become dependent on oil from the Middle East. Unilateral cutoffs of these vital resources for political, economic or conservation reasons could have grave consequences, even to the point of triggering international conflict. In the early days of the Second World War, Roosevelt and Churchill proclaimed an Atlantic Charter with the postwar objective of "access, on equal terms, to the trade and to the raw materials of the world." In three decades of negotiations since that time, our focus has been almost exclusively on access to markets. In the next decades, we will need to place new emphasis on arrangements to assure reasonable access to scarce resources.

Over the next few months, it seems likely that initial answers to the specific problem of oil will be sought in a widening series of negotiations that will come to embrace producing and consuming countries. But it is already clear that such negotiations will not be limited merely to the terms and conditions, including price, on which oil will hereafter be made available by its principal producers. These latter have made it abundantly clear that their intended "terms and conditions" extend at least to the trans-

fer of technology and investment and to the price and availability of raw materials and finished products that now move from the major oil consuming countries to the oil producers. Once other developing countries become involved, moreover, other subjects could form a part of the multilateral bargain that may be necessary—such as market access for developing countries' exports, the participation of the oil producers in aid and relief for the developing consumer countries, and provisions for food that guarantee its availability and price on terms paralleling those worked out for oil.

In all probability, these negotiations will not be crammed into the framework of the already-scheduled trade negotiations for which principles were agreed at Tokyo last fall. But certainly what is worked out for and around the question of oil will have a major impact on those negotiations—and may well leave unresolved many of the wider issues of principle involved in the question of access to resources. These issues have now become critical, and we need to look hard at the present state of international law and organization and what can be done about it.

Not surprisingly, after three decades of neglect, the present state is far from satisfactory. The General Agreement on Tariffs and Trade does contain a general prohibition on the use of export and import controls (Article XI) as well as a requirement that both export and import controls should not discriminate between countries (Article I). But a subsequent article adds exceptions to these rules—and exceptions to the exceptions—which make it extremely difficult to discern any coherent guidelines for national policy.² And, what is more to the point, all of these principles are effectively vitiated by a subsequent GATT article (XXI) which declares that nothing in the GATT shall be construed "to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests . . . taken in time of war or other emergency in international relations."

² Article XX of GATT permits measures deviating from these and other GATT rules "relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption." The same article also permits measures "essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products . . ." These authorizations of export restrictions are subject to the requirement that such measures "are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or disguised restrictions on international trade."

A major objective in the forthcoming trade negotiations should be to incorporate some new and stronger rules. At a minimum, these should prohibit the use of export or other controls for political purposes. A country should not be permitted to cut off or threaten to cut off exports in order to change another country's policies (although exceptions would have to be granted to permit countries to restrict the export of weapons and national security information and also to restrict trade in the course of actual hostilities). The new rules should also seek to define more precisely the economic, conservation and other purposes for which exports can be limited, and should place greater emphasis on the need to take account of the interests of others. Most important of all, since the rules on this complex subject will inevitably require interpretation in specific circumstances, new GATT procedures should be created requiring advance notice, consultation, authoritative interpretation of the rules, and settlement of disputes by impartial conciliation commissions under GATT auspices.

Where countries are found to have violated the new principles and fail to adjust their policies in accordance with multilateral decisions, they should face the possibility of multilateral reprisals. If this cannot be done through the GATT, it may have to be undertaken through the OECD or some other multilateral forum. In extreme situations, multilateral sanctions may even have to be applied to countries that are not GATT members, on the theory that violation of broadly agreed-upon community standards are gravely threatening community interests. If we can propose cutting off air service to countries that give refuge to hijackers, if we can contemplate denying port facilities to nations that pollute the oceans with their tankers, we should certainly explore the possibility of multilateral trade, aid and investment embargoes on nations that threaten the world economy by arbitrarily withholding vital raw materials.

None of the Arab oil producing countries is a party to GATT except for Kuwait, but a number of them (including Saudi Arabia) have committed themselves in bilateral treaties with us to refrain from the very measures of trade discrimination which they recently aimed in our direction.³ Moreover, all of these countries voted for U.N. Resolution 2625 (XXV) of the 1970 General Assembly, entitled "Declaration of Principles of Inter-

³ The export embargo on oil was applied selectively to the U.S. and the Netherlands, and thus clearly violated the most-favored-nation provisions in the bilateral agreements.

national Law Concerning Friendly Relations and Coöperation Among States in Accordance with the Charter of the United Nations." One of the key principles of the Declaration was the following: "No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind."

It was the Afro-Asian group in the United Nations, including the Arab countries, that pressed hardest for this principle and for the proposition that it was already part of international law. Of course, their motive was to prevent the United States and other industrialized countries from using economic power as an instrument of political pressure. Not a single voice has been raised in the United Nations to cite the relevance of this authoritative declaration to the Arab oil embargo—which is typical of the "double standard" that currently prevails in the world organization and accounts for much of the skepticism about the integrity of its decision-making process.

Lest we adopt an unduly self-righteous attitude on these matters, however, we should recognize that the United States itself has been one of the worst offenders in using trade controls in ways which have adversely affected other countries. As a result of congressional pressures, the President was given the authority to cut off aid to countries trading with Cuba or North Vietnam. Last summer we unilaterally cut off exports of soybeans and other agricultural products to our trading partners in Europe at the very time we were pressing them to modify policies of agricultural self-sufficiency and become dependent on our production. And the House of Representatives only recently adopted amendments to the trade bill denying most-favored-nation treatment and trade credits to the Soviet Union and other "non-market economy" countries until they grant free emigration to their citizens.

It is obvious from recent events that the whole concept of an open and coöperative trading system is under serious attack. International trade is becoming heavily "politicized." This trend is destroying the traditions of reasonably free and non-discriminatory access to markets and supplies that are essential in an increasingly interdependent world.

Cordell Hull, Secretary of State under Franklin Roosevelt, was a believer in the theory that "if goods can't cross borders,

armies will." Since the U.N. Charter, countries are no longer permitted to use force to back up their economic claims. Quite apart from legal prohibition, such actions now entail costs and risks that make them politically undesirable. But if the Atlantic Charter concept of equal access to raw materials cannot be guaranteed by the use of force, we need to implement it by institutional arrangements that include an effective combination of incentives to coöperation and deterrents to destructive behavior.

Amendments have now been proposed to the trade bill which would authorize the President to cut off trade, aid and private investment from countries that injure the international community by the unreasonable denial of essential commodities. In using such new powers our government should act multilaterally, not bilaterally, for at least three reasons. The first is that in most cases a threat of reprisals against raw material cutoffs will have little practical significance unless we have our OECD partners with us. The second is that unilateral U.S. action will look to others as a destructive act of nationalism unless it is related to multilateral rules and procedures. The third is that such an effort of "collective economic security" could degenerate into a North-South economic war unless it is based on principles acceptable to a substantial number of developed and developing countries.

Obviously codes of conduct by themselves are not enough. On both sides of the great economic divide, there will need to be more enlightened perceptions of national interest. In recent years, the developed countries have manifestly failed to discharge the aid and trade obligations that were necessary to make a success of the Development Decade. Partly in response to this failure, partly out of a misguided nationalism, many developing countries enlisted under the banner of "sovereignty over natural resources"—failing to see that developed countries also have "sovereignty" over their capital resources, their technology and their internal markets, and that some mutually agreed limitations of sovereignty are essential to give full possibilities to the sovereignty of all. Ironically, the greatest victims of the "sovereignty" that the OPEC countries exercised in quadrupling oil prices in 1973 were the developing countries themselves.

It would be tragic if developing countries were to conclude from the temporary "success" of the OPEC countries in raising oil prices that confrontations through producer cartels and across-the-board nationalizations now offer a better future for

them than coöperation. Growing resource pressures do promise some additional bargaining power to many developing countries, but outside of oil the possibilities for successful producer cartels to raise prices are very doubtful—either the producers lack the identity of interest and the necessary foreign exchange reserves for a collective cutback in supply, or the consumers have too many other options in the form of large stockpiles, home-based production, and the availability of substitutes. The danger is that a policy of confrontation could push developed countries into policies of self-sufficiency, denying developing countries the technical assistance, the capital and the market access without which they cannot meet their development goals. In the economic and political backlash, even the resource-rich developing countries would lose; and the have-not countries would lose most of all.

In the next several years, the United States and the other industrialized countries, in their enlightened self-interest, should commit themselves to a number of measures to assist the economic development of the developing countries—more multilateral aid, more market access for developing countries' exports, more transfer of technology, a world food reserve, more private investment on mutually satisfactory terms, revenue-sharing from seabed exploitation, the issuance of special drawing rights to multilateral lending agencies, and a new look at commodity agreements in those special situations where they may be practicable. In return, the developing countries can fairly be asked to do their part in the construction of a coöperative economic order which would include nondiscriminatory access to raw materials at reasonable prices.

Thus the elements of a "world order bargain" between rich and poor are emerging more clearly as a result of the energy crisis. The way to strike it is not through bilateral North-South arrangements that can only lead to political friction and an unfair distribution of both aid and raw materials. To find a truly multilateral solution to the energy problem, as part of the broader issue of economic relations between developed and developing countries, is perhaps the most urgent challenge that now faces the international institutions and their members.

IV

The need for multilateral agreement and management is, then, becoming steadily greater and more widely felt. But of course

need alone is not enough. Most national leaders around the world do not have to be persuaded that it would be much better to approach key problems on a multilateral basis, usually a global one; the question that troubles them is whether international rules and organizations can be made to work. Unless some major structural weaknesses can be dealt with more effectively, even the existing responsibilities of existing international agencies will slowly wither away, and new responsibilities, however badly needed, will simply not be given either to old or new agencies.

Since the structural problems are political in origin, to remedy them will require not just technical ingenuity but an act of political will on the part of key member-states. The deficiencies of international institutions that governments cite as reasons for bypassing them are of the governments' own making. Some acts of creative statesmanship are needed to break out of the vicious circle. To paraphrase a slogan of the peace movement: "All we are saying is, give the international organizations a chance."

The most obvious structural problem is in the decision-making process. How to equilibrate voting power, not just with national sovereignty but with responsibility for implementing decisions, is a riddle that continues to plague the international agencies. It is understandable that large and middle-sized powers will not grant significant authority to a General Assembly where countries representing less than ten percent of the population of the total membership and less than five percent of the budget can take decisions by a two-thirds majority. It is equally obvious that the "principle of unanimity" under which any one country can veto action is not a recipe for progress.

Fortunately, there are a number of methods that have been developed to assure that influence in decision-making bears a reasonable relationship to power in the real world and to the responsibility for implementing decisions. Weighted voting is the most obvious, but the assigning of differential voting rights is often non-negotiable. Other approaches deserve greater attention: "double majorities" (requiring a majority of all the members plus a majority of specially defined categories of members); "weighted representation" (delegating decision-making to a small committee in which the countries that are most important in the particular subject matter have more than their normal proportion of seats); "bicameralism" (in which decisions must first be adopted by a small committee with weighted representa-

tion and then by the membership as a whole); and "conciliation" (deferring a vote for a "cooling-off period" of further negotiations at the request of a specified minority of countries).

Obviously no one decision-making formula will be applicable across the board. Different structures are required for different functions—what is appropriate in a new oceans agency may not be appropriate in multilateral development assistance. Moreover, the decision-making reforms that are needed will not always adjust power in the same direction. The United States will justifiably seek "a GATT within the GATT" where decisions can be taken by the key trading nations on some special voting basis rather than on the one-nation one-vote formula among 86 contracting parties. At the same time, it can reasonably be asked to concede a greater voice in the IMF and World Bank to Japan and the Arab countries, whose voting power does not adequately reflect their financial power. To be sure, changes in outmoded or unreasonable decision-making arrangements may be opposed initially by the countries that presently have more than their fair share of influence. The challenge to multilateral diplomacy—and one that has not been seriously faced so far—is to persuade the countries that are overendowed with power in a particular institution that a fairer sharing is needed to save the institution from creeping irrelevance and make it more effective on matters of interest to them.

A related but separate structural problem is how to improve present arrangements for creating, adapting, interpreting and enforcing international law—what some would call the "normative process." The development of new rules of law has become both more cumbersome and more politicized—we need only contrast the highly political 90-member preparatory committee for the current Law of the Sea negotiations with the small and expert International Law Commission that prepared the texts for the Law of the Sea conventions of 1958. While the membership explosion of the U.N. system makes it politically impossible to return completely to the old ways of doing things, the common interest of all countries in the orderly development of new rules of international law suggests that greater use of small and expert bodies should be made in the preparatory stage of law-making conferences.

Once the rules have been created, we need better arrangements for adapting them in the light of rapid and possibly unforeseen

changes in political, economic or scientific circumstances. The traditional amendment process is as unsatisfactory a means for modernizing treaties on oil pollution from tankers as it is for modernizing the GATT provisions on nontariff barriers. A possible formula here is the delegation of power to small and expert groups to promulgate changes in the rules, subject to an "opting out" privilege for countries that do not wish to accept the changes. With respect to interpretation and application of the rules, we will need to have greater resort, in such diverse contexts as trade and environmental protection, to fact-finding, conciliation and arbitration by disinterested third parties. Finally, we will need to find better ways of enforcing the rules, as by multilateral action that denies benefits and applies punishments. As has been noted, where essential community interests are threatened, as for example in hijacking, marine pollution or the withholding of vital raw materials, action may need to be taken not only against those who ratify the rules and then break them but against those who refuse to accept the rules at all.

A third structural problem that must be mentioned is the crisis in morale and effectiveness that now afflicts the international civil service. Though a few international agencies may be exempt from this generalization, in most of them the concepts of independence and efficiency have been badly eroded by political pressures, particularly the excessive emphasis given to the concept of "equitable geographical distribution." If the vitality of the international agencies is to be assured, more must be done to apply standards of excellence in recruitment, promotion and selection out. Greater efforts should be made to fill senior positions with outstanding persons from the professional, scientific and business worlds, rather than predominantly, as is now the case, with persons on loan from member-governments. As with the other structural problems, what is required here is a change in national behavior resulting from a new perception by key governments of their enlightened self-interest.

A final structural problem is how to coördinate and rationalize the fragmented system of international agencies. Governments are encountering increasing difficulties in coping with the proliferating conference schedule and the bewildering variety of secretariats that deal with separate pieces of a total problem. The need here is not just to cut overlapping and wasteful activities, but to clarify responsibility for taking and implement-

ing decisions. It involves both functional coördination (e.g., the respective responsibilities for balance of payments adjustment between IMF, GATT and OECD), and regional coördination (e.g., the division of functions on air pollution between the U.N. institutions and agencies like NATO⁴, OECD, and the Council of Europe). Once again, the problem is fundamentally political, since the proliferation is partly the result of "forum shopping" by governments which wish to promote a favorable outcome, and partly the result of the launching of special purpose programs (e.g., on population, environment, and narcotics) financed by voluntary contributions from governments which feel they cannot achieve their objectives within the U.N.'s central policy and budget process.

A generation ago the central problem was to create new institutions where none existed; today it is to get several hundred functional and regional commissions, boards, committees and secretariats to work together effectively. Perhaps the most difficult obstacle in the way of the objective is the projection into the international organizations of the fragmented system of "portfolio government" that still characterizes most of the major countries. Governments will have to do a better job of coördinating themselves if the functional approach is to produce a coherent system of international institutions. The special session of the General Assembly on economic issues now scheduled for 1975 provides a useful opportunity for governments to clarify their objectives and improve their internal processes for the achievement of this purpose.

V

If the functional approach to world order is to have any kind of chance, there are some obvious things the United States will need to do.

One obvious and pressing need is to take a hard look at the way the American government is organized to cope with the present sweep of multilateral negotiations. Multilateral diplomacy increasingly cuts across the interests of many domestic departments. The effort to resolve foreign policy conflicts between agencies has led during the past decade to excessive concentration of power in the White House. The new practice of having

⁴ Specifically, NATO's Committee on Challenges of Modern Society, which is directly concerned with this subject.

cabinet officers like the Secretary of State and Secretary of the Treasury double as assistants to the President, with responsibility for directing policy in certain areas, offers a new opportunity to coördinate our approach to different multilateral negotiations, achieve consistent solutions to structural problems, involve the necessary disciplines and interest groups in the policy process, and exploit potential "trade-offs" between different negotiating sectors. The mechanism of the National Security Council (NSC) could be used more than it has been to achieve these objectives.

Moreover, for many of the multilateral negotiations discussed earlier, we could establish an interagency task force as a subgroup of the NSC, with a supporting staff in the executive department most directly concerned with the subject matter. The model could be the NSC interagency task force on the law of the sea and the new office established in the State Department for the law of the sea negotiations. It would also be useful for many of the ongoing negotiations to appoint an outstanding professional from within the government or from private life to serve as Ambassador-at-Large to direct the U.S. negotiating team. Regular congressional consultation and private-sector involvement through a working (not ceremonial) public advisory group—as is now the case on the law of the sea—could assure a more open and democratic policy-making process.

It is people, of course, not just boxes on organizational charts, that determine the effectiveness of a nation's policy process. Our ambassadors to the United Nations and other international agencies should be individuals with broad experience and deep substantive knowledge; their staffs should consist of the best talent our country can make available, not only from the foreign service but from the business, academic, professional and scientific communities. We will know we are serious about our "world order business" when we stop using positions in our missions and delegations to international agencies for political payoffs, and start applying the same requirements of excellence here that we apply in negotiations with the Russians and Chinese. Another test of our seriousness will be the extent to which we include in the very top structure of decision-making—in the White House and the key executive departments—persons experienced in and committed to the multilateral approach.

Third, we need to put a new emphasis on world order issues in our bilateral negotiations with former adversaries, nonaligned

nations, and old allies. In particular, this would mean using our negotiating leverage to encourage the Russians and Chinese to take a more affirmative position on such matters as the law of the sea, international programs to curb population growth, U.N. peacekeeping and U.N. financing, and the reform of the decision-making and law-making processes along the lines mentioned earlier. This will be a difficult and long-term effort, but there will be a growing number of people in both countries who understand the necessity of tackling such issues in a coöperative and non-dogmatic way; we could strengthen their hand by the right kinds of initiatives. For example, we have created a dozen U.S.-U.S.S.R. bilateral commissions as the result of the summit meetings: we could use the SALT Commission to explore the possibilities of mutual nonintervention by the superpowers in Third-World areas and of limiting the spread of nuclear and conventional arms; we could seek support for global health and population programs in the bilateral health commission; and we could press in the environmental commission for Soviet coöperation in global efforts to curb whaling, protect ocean fisheries, and regulate land-based sources of marine pollution. We could place a similar priority on world order issues in our relations with the European countries and Japan both bilaterally and in regional forums like NATO and OECD. And we could work harder to strike a "world order bargain" with the developing countries—showing more interest in their priorities in order to encourage their support for ours.

Most important of all, we need a more principled approach to the conduct of foreign policy. Instead of citing the U.N. Charter and other sources of international law when it suits our short-term interest and ignoring them when it does not, we would recognize our long-term interest in strengthening the norms and processes of a civilized world community. We would make a greater effort to use our armed force and economic power consistently with multilateral undertakings and with other sources of international law, submitting disputes wherever possible to third-party settlement. We would resort to unilateral action only in very exceptional circumstances where multilateral processes were clearly unavailable, and any unilateral action on our part would be carried out in a manner calculated to promote the restoration of multilateral processes. To be specific, we would abolish the CIA's "dirty tricks" department, avoid the excesses

of unilateralism that characterized our Vietnam and Dominican interventions, do more to strengthen multilateral processes in foreign economic policy, and show a really objective concern with human rights questions on a global basis—whether within the borders of former adversaries, neutrals, allies or in our own society. This does not mean unilateral disarmament or ignoring valid concerns of national security. It does mean recognizing that national security can only be promoted from now on by achieving a better balance between traditional preoccupations with power relationships and emerging requirements of global order.

Implicit in all these recommendations is a redefinition of our foreign policy objectives. We would make it clear that a “structure of peace” cannot be achieved merely by maintaining a precarious balance between five power centers—that it requires strengthened international institutions at the global and regional levels in which all interested nations have a chance to participate. By making “world order business” our central preoccupation we could help rebuild support for our foreign policy at home and abroad by identifying our purposes more closely with those of the rest of mankind. By demonstrating a commitment to constructive internationalism, we could find common ground between generations as well as political parties.

Were we to commit ourselves fully to the multilateral approach, were we to enlist the energies of our Congress and our citizens, were we to exploit to the full what leverage we still have with other nations, we might begin, very gradually, to deflect the divisive tendencies of nationalism that are now emerging and to exploit the latent possibilities for strengthening the international system. Some may object that a generation of arduous and possibly futile negotiations on specific functional problems is not a very inspiring prospect to put before a democratic electorate. Let them ponder again the words of Dickens: “It was the age of wisdom, it was the age of foolishness, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way.” We do have to aim in one direction or the other. The road to world order will still be a long and hard one, but since the short cuts do not lead anywhere we have no choice but to take it.