

I should first indicate the usual disclaimer that whatever I say here does not reflect any position of the United Nations Legal Office. When I saw the topic of this symposium, "U.S. Attitudes Towards U.N. Peacekeeping and Maintenance," I was reminded of my roots and my background, which is the state of Nebraska. I have a cousin who has a farm outside Lincoln, and he is fond of saying in his Midwestern accent that the only problem with the United Nations is that there are too many foreigners in it. I do not think he thought of that line first, but it is true that he is not alone in thinking that. Indeed, I want to address the same issue Professor Bilder did: we are indeed facing a difficult time of anti-U.N. and anti-multilateralism in this country. I will just throw a few thoughts out as to why that is and what might be done about it.

In terms of anti-U.N. attitudes, we often forget that the United Nations was quite a different organization in the not too distant past. If you scratch the surface, many Americans will think the U.N. has been and continues to be anti-U.S. because, for a long time, the U.N. was a stage for the Soviet bloc and for Communist efforts against U.S. and Western initiatives in all kinds of fields, such as human rights. It was also a stage where Communists and the Group of Seventy-Seven held sway in the General Assembly and had all kinds of resolutions passed calling for, as Americans would say, "sharing the wealth," a new international economic order. All that gave the American public, particularly American business, quite a fright. It was also a scene in which anti-Israeli resolutions were constantly being adopted: one resolution called Zionism a form of racism and others attempted to remove Israel from the United Nations by rejecting the credentials of its representatives. It was a place where the budget of the organization was in the hands of the non-aligned, the automatic majority, and the U.S. and the other countries that paid 80 percent of the bills were often voting in the minority without any way to stop it. So, in some sense, this anti-U.N. sentiment harkens back to those days.

That is not the U.N. of today, but the message is not getting out that it is not the same world organization at all. The Soviet Union is gone; there is no longer any Communist bloc. There is only one superpower: the United States. The U.S. basically gets much of what it wants out of the U.N. today.

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The Security Council is functioning more like the Charter drafters intended it to, and the five permanent members agree more often than not. The Council of fifteen is the engine behind the organization of 185. These fifteen members may enact "legislation" under Chapter VII of the Charter and the other 170 must follow. The members are required to report to various sanctions committees as to what they are doing in their internal legislation to abide by Security Council decisions taken under Chapter VII of the Charter.

The U.S. has been extremely successful. It was not only able to get authorization for the Iraq and Kuwaiti operation but has also maintained Iraqi sanctions in spite of doubts by some as to the U.S. interpretation of the sanctions regimes. The U.S. was also successful in getting the Security Council to agree in the Lockerbie case that Libya's failure to turn over two or three suspects constituted a threat to international peace and security. The Council agreed, and therefore, sanctions were imposed on Libya. But the fact that the U.S. was able to convince the Council without much apparent difficulty that refusing to turn these people over constituted a threat to international peace and security raised a few eyebrows at the time.

In addition, the U.N. is very big on advancing democratization; "fair and free elections" is favorite boiler-plate language in the U.N., which now supervises or verifies many elections. The U.S. Congress of the 1950s would have been absolutely gleeful to hear that the U.N. actively takes the side favorable to democracy as opposed to dictatorship or neutrality.

The United States and U.N. interests essentially converge today. In terms of money, if the U.S. does not like the proposed U.N. budget, it can have it changed, since the U.S. and the major spenders all have a de facto veto in the budgetary process. Moreover, the senior American in the Secretariat is an Undersecretary General in charge of administration and management, not the Undersecretary General for General Assembly affairs or any other diplomatic matter. He was hired a year ago from the American private sector, from Price Waterhouse, to take charge of money and personnel. When the U.N. diplomats hear the kinds of things my cousin has said, they wonder what else is wanted. It is with a great deal of consternation that they see untrue or misinformed statements in the U.S. press and the Congress. For example, a Representative from Wisconsin has said in the famous HR 7 debate, "the American people do not want American soldiers being used as pawns in the United Nations designs. They do not want American soldiers under anything other than U.S. command in peacekeeping operations. The U.S. taxpayers would pay their fair share, but they do not want

to be milked by the U.N. any longer to the tune of \$1.7 billion which is then added to voluntary support of \$2.8 billion.” He also said, “we all know that these funds are simply wasted.” A Congressman from California gave the following statement: “Not one American should die serving the United Nations. No Utopian affection for the U.N. on the other side of the [Congressional] aisle should affect the solemn obligation of the U.S. to protect the lives of its soldiers.”

Some of these negative feelings about the U.N. come from the old U.N., but others come from the false information about such issues as cost, as Professor Bilder mentioned. U.S. Secretary of State Warren Christopher testified in Congress that the whole foreign affairs portion of the budget constituted one percent of the federal government budget.

Another reason for the negativity could be that the loss of U.S. lives and the images of what occurred in Somalia are still vivid in everyone’s minds. What has not been made clear is that the operation which resulted in the loss of American lives there was not a U.N. operation but an operation parallel to the U.N.’s under total U.S. command.

Also, as Professor Wilner said, there is no longer an enemy. Americans may be thinking that after World War I, the U.S. had a chance for leadership, and indeed led during the conflict, but in the end turned its back and decided to do something else. Why do we need to get mixed up with foreigners anyway? We do not need to fix things; we do not even need alliances. Let’s just take care of our own house for a change—America first.

Perhaps, another reason is basic U.S. politics. What U.S. politicians do not often say is that U.N. decisions and policies are one and the same as U.S. decisions and policies. Since the Executive branch is in the hands of the Democrats, attacking the U.N. also attacks the foreign policies of the Clinton administration. I am not saying there are not things to be criticized there. For example, in terms of consistency and application of Chapter VII decisions, the Administration is currently issuing orders that the U.S. will not enforce the U.N. arms embargo against the former Yugoslavia. We are not breaking the sanctions as such since we are not selling arms to the Bosnian government, but we are no longer enforcing that embargo. On the other hand, the reverse has been true in the case of Iraq. The U.S. has insisted on reading the terms of the Resolution strictly in order to make sure that the sanctions are not lifted in any way against Saddam Hussein.

There are U.N. failures which also contribute to the mood of the public. The public, of course, does not look at Mozambique, El Salvador, Cambodia, and other places where things have gone relatively well. Rather, they look

at where there have been failures in achieving the objectives. For instance, Somalia and Bosnia are very much on point. The Security Council adopted various resolutions which proclaimed certain "safe areas" in Bosnia and caused a certain expectancy that the U.N. would indeed make them safe. However, the mandate was flawed from the very beginning. The Secretary-General told the Council two or three times in writing that we could not do this, but the Council never reacted. In August and September, when safe areas were attacked and the U.N. did not respond, Congressmen and Senators said "See? The U.N. is worthless. They can't do anything. We should let N.A.T.O. take care of it, and there would be no problems." The U.S. government and the Security Council made a mistake in adopting a mandate which was impossible to implement without giving the Secretary-General and the military the resources to implement it.

The dangers in the current resolutions before the House and the Senate are threefold. First, the insistence that U.S. troops have to be under U.S. command and not foreign command does not work in the operational sense. What will happen if an American U.N. commander in Haiti tells a Dutch group in a small town to take a certain measure to deal with riots and chaos, and the Dutch commander says, "Well, I have to check with Amsterdam and see how they feel about that," and comes back to say "Sorry, my generals in Amsterdam feel that it would be imprudent for me to do that, so I am not going to do it." What does that do to military discipline and military effectiveness? Of course, Amsterdam is not Washington, but that is basically what the U.S. is asking for in this legislation. It is interesting to note that they exclude from the legislation the two areas in which Americans are currently under foreign command: 500 American soldiers under Nordic command in the former Yugoslav Republic of Macedonia, and the Navy Hospital in Zagreb, Croatia, which is technically under foreign command. The Democrats questioned this in the congressional debate, but there was no response. In the end, we may not have any Americans serving in peacekeeping operations because it just will not work the way the legislation requires. That would be unfortunate, but it would not be the end of the world. After all, it has only been recently that the permanent members have provided troops for peacekeeping operations.

The second major danger in the proposed legislation is that it calls for deductions for all U.S. support in kind or voluntarily given to U.N. peacekeeping operations which are not part of the mandatory operations. If the U.S. is told that the U.N. needs someone to ferry Bangladesh troops from Bangladesh to Nairobi for service in Rwanda, and we use our logistical

support to assist, this service which we volunteer currently free of charge would be credited against the assessment. Everybody else would claim similar deductions, which would involve crediting a huge sum of money. Ruth Wedgwood reported the following in an article in the *International Herald Tribune*: the British have a formal assessment of \$184 million and their unreimbursed additional cost was \$741 million. Canada has a formal assessment of \$90-\$100 million and their voluntary contribution was an additional \$500 million. Argentina is assessed at \$4.5 million and their unreimbursed additional contribution was \$60 million. Norway, Sweden, and others are similarly situated. The likely result would be that the U.N. would end up with absolutely no money for its operations if such credits were allowed.

There is also a legal point which often gets lost because its impact is not felt as much as stopping peacekeeping: unilateral reduction of the dues is against the Charter, which empowers the General Assembly to set the dues. Under the current regime, the permanent members of the Security Council pay a little more for peacekeeping because they have the veto power and special responsibilities in the peace and security area. They are under a different scale for peacekeeping than for the regular budget. The U.S. pays about 30 percent. Under this legislation, the U.S. would pay 25 percent or even 20 percent under the amended House version. Of course, we all know that the U.S. has not been paying, but now under the Bush and Clinton administrations, the U.S. has begun to pay its dues and to fill in the gap. That would probably stop with this kind of legislation. Whether or not there is a legal solution to the crisis is not certain, but it is probably not worthwhile raising the dispute to an arbitration or I.C.J. level between the U.N. and its host country.

Finally, as to what can be done, I agree with most of what Professor Bilder said. The main point I would like to emphasize is that the U.S. executive branch, or those in favor of multilateralism, should point out that it is in the interest of the U.S. to support peacekeeping. If the Congress continues to take its current course, it will create a tremendous vacuum which may be filled by entities who we do not want acting in the area. For example, in Bosnia-Herzegovina, where some want a lift and strike policy, the British, French, and Canadians have essentially said, "If you do that, we are out of here because our people will be engaged in a war in which we will be attacked as being party to the conflict." Some countries that have been waiting in the wings ready to come into Bosnia to replace the British and the French are what the U.S. terms "Muslim fundamentalist states." What sense does it make on the part of the United States to encourage that?

The Security Council itself can improve its methods; it can watch more carefully the drafting of its mandates and avoid the credibility problem we have had both in Somalia and in Bosnia. It can also get out of operations more quickly than we have before if it is quite clear that the protagonists do not want us there. The other thing that might happen is that we may have more contracting out, as the Secretary-General himself has said, where organizations such as N.A.T.O. are authorized by the Security Council to undertake some actions. Whether that is good or bad in the long run remains to be seen.