

# Power and legitimacy

The quest for order in a unipolar world

Alfred van Staden

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### *Author's note*

The author is indebted to his Clingendael colleagues Prof. Jan Rood and Prof. Jan Melissen for their valuable comments on an earlier draft of this study. He also would like to thank Dalia Kaye for correcting and polishing the (American-)English language of the text.



## Foreword

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This is the first issue in the *Clingendael Diplomacy Papers*, a new series of occasional papers published by the Netherlands Institute of International Relations *Clingendael*. It is launched as part of the Institute's restructuring at the beginning of 2005. The 'new' *Clingendael* is subdivided into four thematic programmes, the *Clingendael Diplomatic Studies Programme* (CDSP), the *Clingendael European Studies Programme* (CESP), the *Clingendael Security and Conflict Programme* (CSCP), and the *Clingendael International Energy Programme* (CIEP).

Each Programme has its own paper series. Apart from the present *Clingendael Diplomacy Papers*, the Institute has *Clingendael European Papers*, *Clingendael Security Papers*, and *Clingendael Energy Papers*, all to be launched in the first quarter of 2005. The papers will be printed with a glossy cover and are available at the office of the corresponding Programme. What characterizes this new series, is that all contributions will be published in the English language and that *Clingendael's* own academic staff will write them. Most *Clingendael* research - both in English and in Dutch - is of course likely to be published elsewhere, but the *Papers* are meant to serve as a sample of the quality and diversity of the Institute's work on diplomacy and global governance, European integration, international security and conflict, and international energy issues.

The *Clingendael Diplomacy Papers* should be distinguished from the existing *Clingendael Discussion Papers in Diplomacy*, a two-monthly international series originally launched at the University of Leicester and that will celebrate its hundredth issue in 2005. The *Discussion Papers in Diplomacy*

are a mainly internet-based series, they are written by senior and junior scholars from all over the world, and they have a clearly defined focus on diplomacy as the mechanism of communication, negotiation and representation between states and other international actors. In contrast, the *Clingendael Diplomacy Papers* initially only have a printed version, and will only be downloadable some time after publication. They are also much wider in scope, including a wider variety of themes in international relations, and more specifically global governance and diplomacy. In fact, the *Diplomacy Papers* can be seen as an outlet of English language research by the Clingendael Diplomatic Studies Programme (CDSP).

The CDSP combines some of the Institute's traditional strengths in the fields of research and training with new fields of interest. The Programme has three broad dimensions. First, it studies diplomacy, particularly contemporary trends and innovations in diplomatic practice. Secondly, it is dedicated to an increased understanding of global issues and the development of policy responses to governance challenges raised by the erosion of national boundaries. Thirdly, the CDSP builds on the Institute's long-standing strengths in the field of diplomatic training for a variety of countries and international relations courses for Netherlands policy makers. It facilitates contacts and interaction between academics, policymakers and analysts. The Programme organizes conferences and workshops, it offers a wide range of training programmes for international relations practitioners, and it publishes on diplomacy and global governance. The CDSP participates in international networks of training and research institutes and it contributes to the development of diplomatic academies.

It is an honour for our Programme to launch this series with a stimulating contribution by Prof. Alfred van Staden, the Clingendael Institute's Director. His study of world order, in particular related to problems of security, makes a case for the strengthening and amplifying of international regimes as well as the existing body of international institutions. Throughout his career Van Staden has been fascinated by the implications for world order of the pre-eminent position of the United States. In this paper he confirms his credentials as a moderate Realist, in the sense that he sees effective multilateralism as a practical concept to achieve the goal of matching American power with international legitimacy. In the context of the present unipolar international system, his wide-ranging analysis also includes a critical evaluation of Europe's role in future international order. Extra copies can be ordered from [cdsp@clingendael.nl](mailto:cdsp@clingendael.nl)

Prof. Jan Melissen  
*Director, Clingendael Diplomatic Studies Programme*

# Introduction

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This study is about the quest for order in the present world system. The concept of international order is not without ambiguity; quite divergent interpretations abound. Sometimes the concept is confused with the notion of power structure or configuration, exemplified by flawed descriptions such as the bipolar or unipolar order. The clarity of the concept is also affected by the intermixture of empirical and normative elements in attempts to define it. One should understand the concept as an analytic tool whose primary function is to help explain international phenomena. It cannot serve as a program for political action, and advance particular values (for instance justice), however worthy such values may be. International order is here taken to mean the whole array of institutions, principles and norms that states develop in their mutual relationships in order to achieve collective goals, such as security, free trade and protection of the global commons. Key elements of the concept include: principles defining the rights and obligations of the units that make up the international system (like sovereignty and non-intervention); the codes circumscribing the use of force (like the right of self-defense); and modes of governance, that is to say steering mechanisms to regulate and coordinate the behavior of the constituent units (like diplomacy and international organization). International orders may be composed of several international regimes performing functions in specific issue-areas.

The absence of central authority in international relations (“a government above governments”) has led many authors to describe this domain of politics as basically anarchical. While recognizing that the element of power looms as large or larger than the element of order, Hedley Bull has

nevertheless argued in his seminal book *The Anarchical Society. A Study of Order in World Politics*<sup>1</sup> that order is an inextricable part of the historical record of international relations. Adhering to the so-called Grotian tradition of world politics – which strikes a bridge between the Hobbesian realist tradition on the one hand and the Kantian liberal on the other – he holds that all states in their dealings with one another, including war, are bound by the rules and institutions of the society they form.<sup>2</sup> Another leading academic expert on the subject, Kalevi Holsti, points out that the end of major wars in the states system since the Westphalian Treaties of 1648 has prompted attempts to create international orders intended to manage, control, or prevent new conflicts and crises. He demonstrates that the orders established by the great peacemaking efforts of 1648, 1713, 1815, 1919, and 1945 have been rather effective at solving the issues of the past, yet few successfully anticipated those of the future.<sup>3</sup> Will the present generation of world leaders fare any better?

Experience to date does not give much cause for optimism. The end of the Cold War, widely likened with the end of previous hot wars, raised expectations that the foundations of a “new world order” (to refer to the words of president George Bush Sr.) could eliminate the fear of large-scale war. The consensus among the great powers reached in the Security Council to punish Iraq’s aggression against Kuwait in the early 1990s seemed to vindicate those who believed that such a new order might be led by the United Nations. However, the consensus in the Security Council turned out to be very precarious. Subsequently, tensions emerged between the United States, Russia and China, reaching its apex during the Kosovo crisis of 1999. Moreover, the world organization hardly proved effective in responding to the bloody conflicts in the Balkans, Rwanda and other parts of Africa. Still, the call for a new international order continued in the political debate. Several political motives and forces kept it alive. One of them was the challenge of globalization, i.e. the problems arising from the spread of interdependencies throughout the world that increasingly weakened the capacity of national government to deal with cross-boundary transactions and movements. It was generally recognized that containing the negative effects of globalization (such as the unwarranted political influence of transnational corporations and downward pressures on labor and environmental standards) would require the strengthening of international governance. Another important impetus came from conceptions about the obligations of states, especially in the field of the protection of human rights and the treatment of minorities, which

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1) Published for the first time by The Macmillan Press (London and Basingstoke) in 1977.

2) p. 27.

3) Kalevi J. Holsti, *Peace and war: armed conflicts and international order 1648-1989* (Cambridge: Cambridge University Press, 1991).

prompted a reappraisal of the idea of national sovereignty.<sup>4</sup> Furthermore, the decision of President George W. Bush to forcefully unseat the regime of Saddam Hussein in the spring of 2003 was widely perceived as a blatant manifestation of American unilateralism. The decision intensified the debate on the prospects of multilateralism as an alternative to US hegemony.

Although the notions of international order and power structure should be kept analytically separate, the main thrust of the argument elaborated in this study is that any viable international order is bound to reflect the prevailing power structure. That is to say: for international orders to be effective, they should not be built *against* the strongest powers but *with* them as much as possible. Institutions lack the potency to equalize power disparities; they can only mitigate them. Nor are institutions able to banish the struggle for power from the world stage; they can only make it more civilized and less brute. In addition, institutions that are short of supranational authority need lead nations to bolster collective action, making enforcement towards aggressors or free riders effective. At the same time, this study's thesis is rooted in the belief that the strongest state also needs to legitimize the exercise of its political power in order to reduce the political cost arising from it. The cost of the use of force is especially high for democracies; freely elected governments are vulnerable to moral reproaches about the loss of innocent lives. The inclination of the lesser powers to accept the right of the strongest to make far-reaching decisions with implications for many other countries will critically depend on the willingness of the strongest to be constrained by international norms, and to take the views of others into account. Political leaders must recognize that in an interdependent world no state with global responsibilities can afford to dispense with the collaboration of allies and friendly states to achieve its goals. Indeed, the more the strongest powers are prepared to involve other countries in their decisions, the more legitimate and effective these decisions will be.

The outline of this study is as follows. After discussing the preeminent position of the United States and whether or not it makes sense to label the present international system as a *Pax Americana*, the study searches for alternative options for world order in the years to come. To limit the scope of the analysis, the main focus will be on problems of international security. While rejecting the claim that any model of world government or global policy networks could serve as the foundation for a viable world order, the case is made for strengthening and amplifying the existing body of international institutions and regimes. The notion of *effective multilateralism* is seen as a practical concept to achieve the goal of matching American power with international legitimacy. References will be made to some of the findings in

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4) See Alfred van Staden and Hans Vollaard, 'The Erosion of State Sovereignty: Towards a Post-Territorial World?' in Gerard Kreijen (ed.), *State, Sovereignty and International Governance* (Oxford: Oxford University Press, 2002), pp. 165-184.

the Report of the UN Secretary-General's High-level Panel on *Threats, Challenges and Change*.<sup>5</sup> The study closes with observations about Europe's role in the further development of international order.

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5) Entitled "*A more secure world: Our shared responsibility*" (New York: United Nations, December 2004). The document was one of the sources that inspired the report of UN Secretary-General, Kofi Annan, *In larger freedom: towards development, security and human rights for all*, which was presented in March 2005.

## A *Pax Americana*?

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This study assumes that American primacy is no passing phenomenon. With no rival in sight, the United States is likely to remain by far and away the world's preponderant power for many years to come, retaining significant leads in economic output, technological and educational achievements and military prowess. Yes, if one extrapolates present growth rates (which has not always proven a reliable guide), China and India can be expected to evolve into formidable economic powers in the future.<sup>6</sup> But carrying heavy economic weight is still a far cry from reaching the status of a military power with global reach. It is hard to believe that these two regional powers will soon be able to acquire the wide array of power projecting capabilities that is required to match the US in bringing pressure to bear in almost any corner of the world. Besides, neither China nor India represents a body of political ideas and social values which acts as a source of attraction towards other countries. In this respect, the European Union fares much better. But the EU, too, is doomed to walk in the shadow of America's strategic might, as long as the majority of its member states are reluctant to surrender sovereignty to a political union whose creation is to be regarded as a necessary condition for conducting a single foreign policy and guiding complex military operations.

Does it mean that the future world order could be or – as some might hope – *should* be an extension of the present *Pax Americana*? In other words,

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6) See the special survey of India and China ('The tiger in front') in *The Economist*, March 5th-11th 2005, pp. 3-16.

could it be built solely on American power and the readiness of the US administration to use this power for the benefit of mankind as a whole? This seems to be highly doubtful. To be sure, the idea of an American order is consistent with the claims of hegemonic stability theory. This theory holds that a dominant state, commanding a disproportionate share of military and economic resources in the world, is indispensable to enforce international cooperation, maintain international rules and agreements, and keep the peace and other values.<sup>7</sup> In the same vein, more than half a century ago, Edward Carr contended that every approach to international order in the past has been the product of the ascendancy of a single power. Overlooking the Concert of Europe – an international order in the first half of the 19<sup>th</sup> century that was based on a *multipolar* power structure, not the hegemony of a single state – he refers to the position of Great Britain in the second half of the same century. British supremacy was epitomized by the British fleet policing the high seas and providing equal security to all, the London money market establishing a single standard for virtually the entire world, and British commerce securing a widespread acceptance of the principle of free trade. These conditions, Carr wrote, “created the illusions – and to some extent the reality – of a world possessing interests and sympathies in common”.<sup>8</sup>

While there are, apparently, similarities between the present-day position of the US and that of the *Pax Britannica* a century and a half ago, the concept of an American order as model for a future world order provokes a welter of divergent objections and counter-arguments. Firstly, American power is by no means one-dimensional; in addition to the military domain, it also makes itself also felt in the field of trade and finance, as well as in the degree of attraction of political values, scientific knowledge, and mass culture, the so-called “soft power” dimension. While the economic vitality and technological dynamism of the US are beyond dispute, American power is only unchallenged when it comes to strategic warfare and large-scale military conflicts. Joseph Nye, for one, never tires of pointing out that power relations have grown complex, and that the world of today resembles to a three-dimensional chess game. On the top board of classic interstate military issues, the US, Nye argues, is indeed the only superpower with global military reach. It makes sense, therefore, to speak in traditional terms of unipolarity or hegemony, even though in unconventional conflicts weaker powers may effectively use the weapon of asymmetric warfare to level off American military superiority. But a different picture emerges on the middle board of interstate economic issues. Here the distribution of power is multipolar (or at least tripolar) because the US cannot obtain the outcome it wants on trade,

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7) See Bruce Russett, Harvey Starr and David Kinsella, *World Politics. The Menu for Choice* (Belmont, CA: Wadsworth, 7th ed. 2004), p. 96.

8) Edward Hallett Carr, *The Twenty Years' Crisis 1919-1939* (London: Macmillan, 1946), p. 232.

antitrust, or financial regulation without the consent of the European Union, Japan and others. One can easily agree with Nye that it makes little sense to call this American hegemony. Furthermore, in his model of a three-layered power structure he identifies a bottom board that relates to transnational issues like terrorism, international crime, climate change, and the spread of infectious diseases. In this transnational arena, power is widely distributed and chaotically organized among state and non-state actors alike. Nye concludes it makes little sense to call this a unipolar world or an American empire.<sup>9</sup>

Secondly, in an interdependent world, the US also needs allies and friendly states. In dealing with threats arising from terrorism, nuclear proliferation, organized crime, and the spread of infectious diseases, cooperation with others is essential. In spite of temptations to use military power unilaterally, solitary national security is a chimera.<sup>10</sup> The American war in Iraq has amply demonstrated that it is one thing to swiftly defeat an enemy in battle, it is quite another to create peaceful conditions in a religiously and ethnically deeply divided Islamic country. Besides, the alleged hyperpower the US represents can barely sustain a military force of less than 150,000 troops. With a total strength of 1.4 million the US armed forces are clearly overstretched, hardly able to wage two regional wars simultaneously.

Thirdly, the American people are not willing to bear the material and non-material burdens of empire. Embarrassed rather than proud with unprecedented power, they have no stomach to be continually on the frontline to withstand thugs, insurgents and rogue states, making high sacrifices for the fate of other countries. Many authors recall that, unlike for instance in Great Britain before the two World Wars, there is no culture of imperialism or a “white man’s burden” complex in the US.<sup>11</sup>

Finally, however benevolent American hegemony in comparison to historical antecedents, the majority of nations are not willing to accept the unilateral use of power. For this reason, US power lacks the legitimacy that is needed to reduce the cost of its exercise. Other nations feel humiliated in having their future made by the decisions of one government. Despite the fact that the hegemon is carrying the disproportionate share of the cost for the supply of public goods, its motives will be questioned. Many view the US as less benign and altruistic than it is perceived through the lenses of its

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9) Joseph S. Nye, Jr., *Soft Power. The Means to Success in World Politics* (New York: Public Affairs, 2004), p. 4.

10) For this point of view see Zbigniew Brzezinski, *The Choice: Global Domination or Global Leadership* (New York: Basic Books, 2004), p. 214. For a similar view, see Ivo H. Daalder and James M. Lindsay, *America Unbound. The Bush Revolution in Foreign Policy* (Washington: Committee to Protect Journalists, 2004).

11) See Niall Ferguson, *Colossus. The Price of America’s Empire* (New York: The Penguin Press, 2004).

representatives. President Bush's rather self-congratulatory characterization of the US as "the greatest force for good on this earth" starkly contrasts with the periodic flashes of anti-Americanism in many capitals of the world. Not surprisingly, America's primacy fuels resentment and envy on the part of less developed countries, particularly in the Arab world. Those who want to entrust the planet's destiny to the US seems oblivious to the age-old question: Who guards the guardian?<sup>12</sup>

The conclusion should be clear: American power is not sufficient to provide the vast amount of resources required to perform the Herculean task of world policeman or global stabilizer. Nor is this task desired by most Americans or generally accepted by other nations. At the same time, American power is necessary for the enforcement capacity of any realistic system of world order. Without active involvement of the US, global institutions will miss the teeth to punish violators of international law. At this juncture, two rather fundamental questions arise. First, will the US choose to exercise its pre-eminent power through multilateral institutions, and seek international consensus? Second, are other nations prepared to resist the temptations of free riding and take account of America's legitimate security interests? The reason why these questions strike at the heart of the problems at issue largely derives from the fact that the traditional model of world order and its modern alternative turn out to be dead-ends. The traditional model refers to the system of world government and the alternative model to the concept of global policy networks. For the sake of clarification, the following section discusses these two models.

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12) See Michael J. Glennon, 'Why the Security Council Failed', in *Foreign Affairs*, May/June 2003, p. 29.

## Traditional and modern approaches

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The traditional model of world government and the modern model of global policy networks are rooted in opposite views of the problem of national sovereignty. The traditional model represents a radical departure of national sovereignty; by contrast, the modern model envisages only limited encroachments on the power of national governments. The model of world government identifies national sovereignty as the main cause of international anarchy and war, thereby considering the creation of a central authority the simple and logical solution to relieve mankind of his predicament.<sup>13</sup> Nations no longer face a security dilemma when the newly created world government is entrusted with the monopoly over the legitimate use of military force, and succeeds in disarming national military establishments to the level of what is needed to carry out domestic police functions. The solution dates back to 17th century Lockean ideas that postulate social contracts, first among citizens in order to establish an organized political community (state), and second between citizens and rulers about the transfer of power from the former to the latter, defining their mutual rights and obligations. World

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13) A classic text on the subject is Grenville Clarke and Louis Sohn, *World Peace through World Law* (Cambridge: Harvard University Press, 2nd ed. 1960). The two authors have elaborated an impressive scheme of world federalism.

government (or world federalism) prescribes, as Inis Claude wrote some decades ago, “an apocalyptic leap out of anarchy into social order”.<sup>14</sup>

Unlike the model of world government, the model of global policy networks is not based on any pre-conceived political idea or doctrine, let alone idealist movement cherishing a grand design of a better world. Rather, it is a reflection of new trends in international relations that shows fragmentation of formerly unitary state structures, increasing direct contacts across national borders between representatives of more or less autonomous bureaucratic institutions (“transgovernmental politics”), and growing involvement of non-state actors in public policies. A leading proponent of this model, Anne-Marie Slaughter, points out that not only terrorists, arms dealers, money launderers, drug dealers, traffickers in women and children, as well as the pirates of intellectual property operate through global networks; government officials, such as police investigators, financial regulators, and even judges and legislators, also work in such networks. In her judgment, they increasingly exchange information and coordinate activity to combat crime and address common problems on a global scale. She laments that the global networks “are underappreciated, undersupported, and underused to address the central problems of global governance”.<sup>15</sup> Transgovernmental networks may evolve to wider public policy networks where private parties also play a role on issues critical to the global public interest. Examples of policy networks, bringing together public and private actors, can be found in the field of health care, environmental protection, and economic development. As already suggested above, in a networked world order political authority would remain primarily at the national level; only in specific cases national governments may delegate their authority to international organizations.

What are the merits and drawbacks of the two models? Starting with world government, the dual question obviously is whether this solution is feasible and whether it is desirable. It is widely recognized that a system of world government is unfeasible, a pipe dream to put it more rudely. A familiar argument against such a radical scheme is that most states would not be prepared to yield their sovereignty to a supranational authority in a world that, allegations about the emergence of a “global village” notwithstanding, lacks even the minimum of sense of community and political consensus required for establishing a common government. Zbigniew Brzezinski rightly contends that the only “world government” currently remotely possible would be an American global dictatorship. But in line with the considerations

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14) See Inis L. Claude, Jr, *Swords into Plowshares. The Problems and Progress of International Organization* (New York: Random House, 1971 4th ed., p. 418.

15) Anne-Marie Slaughter, *A New World Order* (Princeton and Oxford: Princeton University Press, 2004), p. 1.

already discussed such a travesty of the concept would make “an unstable and ultimately self-defeating enterprise”.<sup>16</sup>

For many, a system of world government represents not only a pipedream but also a horror scenario. Cause for concern is the centralization of power inherent to any version of world government, including federalist systems. Will the Lockean dream of civil government turn out to be in reality the Hobbesian nightmare of creating a super-Leviathan? The answer of the influential neo-conservative writer Irving Kristol does not suffer a lack of clarity: “World governments is a terrible idea since it can lead to world tyranny”. Therefore, international institutions that point to an ultimate world government “should be regarded with the deepest suspicion”.<sup>17</sup> Centralization of power at the global level is seen as threat to individual liberty in view of the nearly insurmountable problems that must be overcome to organize a form of democracy or at least an accountable system of government on a worldwide scale. If there is reason to harbor doubts about the existence of a *demos* in the context of the European Union because of the diversity of the peoples to be governed, how much doubt must be expressed about its existence at the global level? To cite Inis Claude again:

“The international community is, and seems likely for the indefinite future to be, characterized by a very precarious unity, a minimal consensus, sharp conflicts, and profound disharmonies. Given this circumstances, it appears that the project of establishing a world government capable of exercising forcible restraint over any and all potential violators of the peace would entail the concentration of really formidable power in the central agencies of the community”.<sup>18</sup>

These words seem to be self-evident, not having lost their validity for now. Furthermore, skepticism is also in order regarding the ability of the world authority to effectively monopolize the use of military force. The trivial truth is that while the establishment of world government, by definition, would terminate interstate wars, its appearance is not to affect the threat of civil war. Clearly, in today’s world, with so many instances of violent domestic upheaval, the latter threat is at least equally relevant for global stability as the incidence of interstate war.

Does the modern alternative to world government, the model of global policy networks, deserve any better judgment? Sympathizers with this model of world order actually claim that transgovernmental networks are offering the best of two worlds: coordinating and harmonizing governmental action without paying the price of centralization of power. In order to examine the validity of the claim that a networked world order does represent a promising

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16) Brzezinski, *op.cit.*, p. 218.

17) Irving Kristol, ‘The Neoconservative Persuasion’, in *The Weekly Standard*, 25 August 2003.

18) Claude, *op.cit.*, p. 429.

approach, some characteristics of the model need elaboration. The strength of the model lies in the assumption about the composition of states, which is commensurate to a great extent with present political reality. Indeed, states are not unitary actors that conduct official diplomatic relations across the full spectrum of national interests, but rather disaggregated bureaucratic organizations that interact intensively with each other on specific areas of interest, largely without interference of any central authority. A second assumption is perhaps not unrealistic either. It concerns the idea that government representatives are often engaged in adopting codes of best practices while seeking informal agreements on coordinated solutions to common problems, rather than negotiating formal legal agreements with one another and implementing them from the top down. Clearly, the advantage of agreements that have no legal force is that the officials who negotiated them can directly implement those agreements.<sup>19</sup>

How effective and how relevant are global policy networks? Yes, those networks can be expected to play a useful role in the transfer of information and the informal coordination of governmental actions, particularly in rather technical policy domains involving few political controversies. Thus, for example, it is gratifying to note that in the fight against terrorism, law enforcement officials from the European Union and the United States are working together to enhance information-sharing while exchanging experts, training and best practices.<sup>20</sup> But can transgovernmental networks really be relied on to perform the functions that any viable world order is supposed to do, namely to constrain nations in their pursuance of power and interests, to enforce international rules, and to secure the supply of collective goods by taking effective action against the free riders in the world? In all likelihood they cannot. It is hard to imagine that such channels can serve as the vehicle for reaching agreement in political arenas where vital national interests clash and, for instance, military campaigns must be staged in order to outlaw aggressors. The proponents of the new model draw their optimism from the successful example of European integration after World War II. However, the nature of the problem-solving arrangements and mechanisms that have evolved within the confines of the European Community/Union differs in essential respects from the main features of the global policy networks.

Surely, the EC/EU has developed new forms of governance through transgovernmental channels. It may also be true that European institutions, first and foremost the European Commission, cannot function adequately without the active cooperation and participation of national government officials, the so-called comitology system. But contrary to what Marie-Anne

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19) Slaughter, *op. cit.*, p. 263.

20) See about this subject the article of the U.S. ambassador to the Netherlands Clifford M. Sobel, 'Trans-Atlantic security cooperation is thriving', in *International Herald Tribune*, September 30, 2004.

Slaughter suggests,<sup>21</sup> it does not mean that power in the European Union rests with networks of national ministers and lower-level officials. Nor can the European model serve as an example for the world at large without taking into account essential features of European history. The EU represents much more than a loosely organized policy network. Being an international organization with state-like characteristics, the Union is unique because it is composed of a complex intermixture of supranational and intergovernmental elements. Parts of national sovereignty have been transferred to the European level, other parts pooled by the member states, whereas still other parts are kept at the national level. Binding rule making and other formal mechanisms of policy coordination coexist with the open method of coordination, which employs peer-pressure, benchmarking, best practices and score-boarding as steering techniques.<sup>22</sup>

While it may be impossible to attribute the achievements of the integration process to particular decision and coordination mechanisms, it is highly unlikely that the EU would have ever reached the present level of integration without the driving force of European institutions and the possibility of imposing decisions on reluctant member states. Moreover, the record of the soft method of open coordination in such a vital area as the realization of the so-called Lisbon Agenda (directed at transforming EU members' economies to the most competitive knowledge-based economies in the world by 2010) is not very impressive.<sup>23</sup> As to the implementation of the rules set by the Growth and Stability Pact, it has become clear that peer pressure does not work in a system in which sinners sit in judgment of sinners. In any case, none of the regional integration experiments outside Europe has succeeded in emulating the EU as to the intensity of mutual cooperation, as well as the scope of voluntary limitations to national sovereignty. For this reason, no one should harbor any illusions about the readiness of nations to accept these limitations in a global context, even though they might be less radical than under a system of world government.

In conclusion, global policy networks are not comprehensive and not effective enough to justify the claim of those who argue that they can constitute the backbone of a viable system of world order. Rather than serving as a substitute for the existing infrastructure of multilateral institutions, they can at most complement and strengthen them.

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21) Slaughter, *op.cit.*, p. 264.

22) About the nature of the EU as a political system, see Gary Marks et al, *Governance in the European Union* (London: Sage, 1998) and Liesbet Hooghe, *Multi-level governance and European integration* (Lanham: Rowman & Littlefield, 2001).

23) See for example Anna Michalski, *Lack of Commitment. Hard Choices and the Search for Political Will* (The Hague: The Clingendael Institute, December 2004).



## Building on existing institutions

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If an American world order is neither feasible nor desirable, a system of world government still a utopia, and global policy networks are not sufficiently strong to muster the political clout for the maintenance of order, what alternative might be left? There is in the quest for world order no other direction but to seek to strengthen and amplify the existing family of global organizations, regimes and informal arrangements that have evolved in interstate relations. This is true regardless of whether the institutions in place are aimed at promoting cooperation in a wide range of policy domains (such as the United Nations) or on specific policy domains (such as the World Trade organization). This is also the position taken in a recent study published by the Belgian Institute for International Relations.<sup>24</sup> Focusing on the governance dimension of world order in particular, the report rightly contends that global governance is not about creating new powerful institutions. Rather, it is about “enhancing the coherence, effectiveness, and legitimacy of the existing ones, about identifying and filling the gaps in the multilateral institutional and regulatory architecture and, finally, about imagining new institutions only where they needed”.<sup>25</sup>

Of the three criteria mentioned, the notion of *coherence* refers to the degree that international institutions are interlocked, and their missions are

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24) Royal Institute for International Relations (IRRI-KIIB), *Global Governance: The Next Frontier* (Brussels: Egmont Papers No. 2, April 2004).

25) *Ibidem*, p. 9.

mutually reinforcing or supportive. According to this description, one of the weaknesses of the UN system is the lack of coherence between the operations of the UN Security Council and important economic and financial institutions such as the WTO, the World Bank and IMF. Strategies of conflict prevention and peace building would require a coordinated approach to security and economic development. The reality, however, is that the Security Council has no leverage over economic aid and financial rescue programs, whilst decision making over these programs is often completely out of touch with security considerations. In the report of the Secretary General's High-level Panel it is recognized that decision-making on international economic matters, particularly in the areas of finance and trade, has long left the United Nations. At the same time, the UN Charter allowed for the creation of specialized agencies independent of the principal UN organs, reducing the role of the Economic and Social Council (ECOSOC) to one of coordination. Still, the Panel believes that ECOSOC is in the position to provide normative and analytical leadership in a time of much debate about the causes of, and interconnections between, various international threats. To that end, it recommends that ECOSOC establish a Committee on the Social and Economic Aspects of Security Threats.<sup>26</sup> It would demand significant optimism, however, to expect such a Committee to enforce coordination between the Security Council and the policies of the economic and financial institutions. On reflection, the problem could only be dealt with by expanding the authority of the Security Council so that it has the power to impose binding guidelines on these institutions. Obviously, this is a tall order.

The meaning of the second yardstick, *effectiveness*, is quite simple: institutions must be able to do what they say, and powerful enough to enforce the decisions they have made. The third criterion, *legitimacy*, raises serious problems. At the national level, there is legitimacy to the extent that people accept the right of political authorities to make binding decisions. The acceptance by the people also includes the rules and procedures according to which those decisions are taken. In David Easton's classic formulation the belief in legitimacy stems from the conviction that it is right and proper "to accept and obey the authorities and to abide by the requirements of the regime".<sup>27</sup> But who are supposed to accept and obey the decisions at the global level? Is one only to think of national governments or should one also consider non-state actors and even ordinary people? In spite of vague ideas that circulate about the creation of a World Assembly or a Forum for Civil Society allowing for direct participation of world citizens, the only practical way to enhance the legitimacy of any system of global governance seems to be to look for a more balanced and equitable representation of countries in

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26) *A more secure world: Our shared responsibility*. Report of the Secretary-General's High-level Panel on Threats, Challenges and Change (New York: United Nations, 2004), pp. 86-87.

27) David Easton, *A Systems Analysis* (New York: John Wiley & Sons, 2nd print 1967), p. 278.

international bodies (first and foremost the composition of the UN Security Council) whose decisions affect their vital interests. In the aforementioned report of the High-level panel, practical proposals are made to bring the lineup of the Security Council more in keeping with the reality of present-day world politics. In advocating extension of the number of the Council's seats from 15 to 24, it presents two alternatives to achieve that goal.<sup>28</sup>

While the reform of the Security Council is long overdue it is rather premature, if not inappropriate, to discuss democratic blueprints as models for global governance in a world where dozens of countries are still under the yoke of authoritarian regimes. There is much to say, though, for making international decision-making more transparent and accountable to a wider group of countries than those represented in international bodies with limited membership (such the UN Security Council) or weighted voting (such as the IMF/World Bank). Similarly, it makes sense to create channels to international organizations for offering non-governmental organizations the opportunity to state their case and enter into dialogue with representatives of governmental organizations at the global level.

Under the present circumstances, however, priority should be given to enhancing the effectiveness of the multilateral institutions. After all, the general acceptance of these institutions depends not only on the possibilities for governments and world citizens to influence international policies (*input legitimacy*), but also on the ability of institutions to impose solutions that address people's concerns (*output legitimacy*). In many capitals there is growing awareness of the need to strengthen multilateral institutions. The term "effective multilateralism", which was coined to take issue with institutions that indulge in pious declarations but are impotent to turn words into deeds, has emerged in foreign-policy documents of western countries. It may be considered one of the cornerstones in the security strategy of the European Union. Thus, in a paragraph, entitled "An International Order Based on Effective Multilateralism", the EU document states:

"In a world of global threats, global markets and global media, our security and prosperity increasingly depend on an effective multilateral system. The development of a stronger international society, well

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28) The first alternative ("Model A") provides for six new permanent seats, with no veto being created, and three new two-year term non-permanent seats, divided among the major regional areas (Africa, Asia and Pacific, Europe and the Americas). The second alternative ("Model B") provides for no new permanent seats but creates a new category of eight four-year renewable-term seats and one new two-year non-permanent (and non-renewable) seat, divided among the major regional areas. See the High-level Panel's Report, pp. 80-81.

In his report *In larger freedom* Secretary-General Kofi Annan refrains from choosing between the two models. The report urges member states to consider the two options or "any other viable proposals in terms of size and balance that have emerged on the basis of either model". (p. 43)

functioning international institutions and a rule-based international order is our objective.”<sup>29</sup>

Several approaches may be taken to strengthen the present multilateral system. But, coming back to the main theme of this study, none of these approaches will be successful unless the US commits itself to the goals of the major global institutions, particularly the UN. The challenge of building a world order today is to match the power of the US with the legitimacy of the UN. From a historical perspective, the strongest powers are reluctant, however, to accept international regimes unless they can dominate them. The latter is illustrated by the fact that the US embraced the UN since its birth as long as Washington commanded a majority of pro-western member states, but turned against the world organization in the 1970s when the General Assembly “began to churn out anti-American votes in the manner of an assembly line”.<sup>30</sup> It is the weaker powers that traditionally turn to international law and organization in order to offset their lack of physical power. Support for international regimes by these countries may be called balance-of-power politics in disguise since it is the only possibility for them to tame the influence of the strongest.

Therefore, Robert Kagan had a point when he argued that the rift between Europe and the United States that became so manifest during the Bush administration was mainly caused by the disparity in power between the Atlantic partners.<sup>31</sup> A militarily powerful US was loath to submerge itself in what many hardliners saw as a mush of collective decision-making that was likely to attach all sorts of strings to the use of force. Relying too heavily on seeking international consensus might engender, in their view, the serious risk of pursuing a policy of doing exactly nothing. Conversely, at the turn of the 20th and 21st century a militarily impotent Europe had no other choice but to put its trust in the multilateral institutions and the peaceful settlement of disputes. It was not able to make a difference on the battlefield, and made a virtue out of this weakness by supporting policies of persuasion rather than of coercion. In the 19<sup>th</sup> century the tables were turned. When Britannia ruled the waves, Michael Glennon writes, “Whitehall opposed limits on the use of force to execute its naval blockades – limits that were vigorously supported by the new United States and other weaker states”.<sup>32</sup>

Even though the US may have short-term considerations to steer clear of the UN system and other multilateral institutions, its long-term interests

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29) *A secure Europe in a better world. European Security Strategy* (Document proposed by Javier Solana and adopted by the Heads of State and Government at the European Council in Brussels on 12 December 2003), p. 14.

30) See Josef Joffe, ‘Who’s afraid of Mr. Big?’ in *The National Interest*, 64, Summer 2001, p. 48.

31) Robert Kagan, ‘Power and Weakness’, in *Policy Review*, no. 113, June 2002, pp. 1-21.

32) Michael Glennon, *op.cit.*, pp. 29-30.

dictates converging American policies with those of other nations.<sup>33</sup> The price of collective legitimization by the world organization may be high: loss of time and watering down of its own position as a result of concessions to others. But the price of unilateralism is likely to be higher in the long run: loss of global respect, the necessity of using hard power instead of soft power, and the outburst of international resentment and envy. By far the greatest risk for the hegemon that refuses to multilateralize its power is the ganging-up of potential rivals. The surest way for the US to prevent any serious challenge to its pre-eminence is to ensure that there is no necessity to do so. If the US, unlike former hegemon, is prepared to give other nations a voice in its policies and sustain the institutions that provide the public goods whose benefits are widely shared, then there is no reason for potential rivals trying to emulate American power either by forming coalitions or by embarking on a catching-up course. As Josef Joffe aptly remarks, the proper maxims for a hegemon that wants to preserve its dominance are: Pursue your interests by serving the interests of others, and transform dependents into stakeholders.<sup>34</sup>

However, for making active participation in the UN system a sufficiently attractive option to the US again in the years ahead, the world organization must be able to deal with the more immediate concerns about national security that has emerged in the US just after the 9/11 attacks. UN Secretary General Kofi Annan hit the mark when he addressed the General Assembly in September 2003 with the following much-cited words:

“But it is not enough to denounce unilateralism, unless we also face up squarely to the concerns that make some States feel uniquely vulnerable, since it is those concerns that drive them to take unilateral action. We must show that those concerns can, and will be addressed effectively through collective action.”<sup>35</sup>

The Secretary-General’s words, stressing, “we have reached a fork in the road”, were generally taken as a vigorous appeal to the member states to rescue the world organization from falling into irrelevance. Could skeptics be persuaded of the ability of the UN to recover? The next chapter discusses at length the possibilities and limitations for reform.

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33) For an elaboration of this view, see Joseph Nye, *The paradox of American power: why the world’s superpower can’t go it alone* (Oxford: Oxford University Press, 2002). See also Jane Boulden and Thomas G. Weiss, ‘Tactical multilateralism: coaxing America back to the UN’, in *Survival*, 46 (3), pp. 103-114.

34) Joffe, *op. cit.*, p. 52.

35) *Secretary General’s address to the General Assembly*, Office of the Spokesman, 23 September 2003.



## Implementing effective multilateralism

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As indicated in the introduction, this study of international order concentrates on the issue-area of international security. It is developments in this domain that are crucial to the question of whether US power can be reconciled with international legitimacy. The concept of security has been widened so as to include economic and social threats, such as poverty, infectious disease and environmental degradation.<sup>36</sup> Nevertheless, not only from an American perspective but from a European viewpoint as well, the challenge posed by international (or transnational) terrorism and the proliferation of weapons of mass destruction (WMD) are the most acute security threats in the present world. It is widely recognized that terrorist organizations in possession of WMD would make a horror scenario of unknown proportions. Different kinds of collective action have to be employed to enhance the effectiveness of the multilateral system to cope with this dual threat. What is needed is to strengthen the international regimes and treaties that have been developed in the issue-areas concerned. But what is also required is to reinforce the political commitment to take collective action against states that break the rules or against terrorist organizations that are preparing attacks on foreign territories. In the event of non-coercive means being inadequate, the preventive use of military force authorized by the world organization must be

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36) These threats are put by the High-level Group on an equal footing with inter-state conflict, internal conflict, weapons of mass destruction, terrorism and organized crime. See the report *A more secure world*, p. 2.

actively contemplated. Individual states that are confronted with imminent threats should have the right to preemptively resort to force. These general observations will be elaborated below.

### **Combating terrorism**

For the fight on terrorism to be effective, both its symptoms and underlying (“root”) causes have to be addressed. This means that would-be terrorists must not only be prevented or stopped from committing acts of political violence, but also the incentives need to be eliminated among oppressed and underprivileged people to regard terrorism as the appropriate and legitimate weapon to advance political causes. The popular phrase “drying the swamps in which terrorism thrives” in response to the latter part of the challenge of terrorism would suggest the availability of a single strategy to do the job. This is not the case because the roots of terrorism are manifold: varying from social exclusion and marginalization to the rise of religious fanaticism and resentment to the West.<sup>37</sup> Therefore, more has to be done than just to alleviate “the plight of the poor” or solve the Israeli-Palestinian issue, however important these issues are. In all circumstances, it is essential to isolate bands of terrorists from the masses on whose behalf they claim the right to kill innocent human beings without any discrimination and with the sole purpose of undermining people’s trust in their government or political leaders.

Meanwhile, there is the threat of terrorism in the “here-and-now”. As terrorism will become more and decentralized and spread their networks of cells (like Al-Qaeda) across dozens of countries, connecting with regional and separatist struggles (like those in Iraq, Chechnya, Kashmir, Mindanao and southern Thailand), international cooperation and coordination is increasingly essential to deal with the threat. In the UN framework, 12 anti-terrorist conventions have been concluded which oblige states to adopt internal enforcement measures and outlaw any assistance to terrorist organizations. In addition, as many as eight Special Recommendations on Terrorist Financing were issued by the Organization for Economic Cooperation and Development (OECD)-supported Financial Action Task Force on Money-Laundering. However, as pointed out in the Report of the UN High-level Panel,<sup>38</sup> far too many states have chosen to remain outside the international conventions and not all countries ratifying the conventions implemented the treaty obligations. The conclusion would be clear: The countries involved must be urged, and if necessary pressured by economic

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37) See for instance Martha Crenshaw, ‘The Causes of terrorism’, in *Comparative Politics*, Vol. 13 (4), 1981, pp. 379-399 and Charles Kegley (ed.), *New Global Terrorism. The Characteristics, Causes, Controls* (Saddle River: Prentice-Hall, 2002).

38) *A more secure world*, p. 49.

sanctions, to assume their responsibilities under the present international regime to counter terrorism.

The Security Council has played a leading part in filling gaps in counter-terrorism strategy. Even before the terrorist attacks of September 2001 the UN body applied sanctions against individuals and states that supported terrorism. Right after 9/11 the Security Council adopted Resolution 1373, imposing uniform, mandatory counter-terrorist obligations on all states and establishing a Counter-Terrorism Committee to monitor compliance and to facilitate the provision of technical assistance to states. Although these actions led to ending the support of some member states for terrorism and mobilizing other states in the fight against it, Council sanctions against Al-Qaeda and the Taliban suffer from lagging support and implementation by other states. Moreover, a number of states are not in full compliance yet with the directives of the Counter-Terrorism Committee.<sup>39</sup> Since UN-facilitated assistance is limited to providing technical expertise, states seeking operational support for counter-terrorism activities have no alternative but to seek bilateral assistance. The High-level Panel proposes to extend the authority of the Counter-Terrorism Executive Directorate of the UN Secretariat to act as a clearing-house for state-to-state provision of military, police and border control assistance for the development of domestic counter-terrorism capacities.<sup>40</sup>

The collapse of state structures in some countries or the limited capacity of governments in other countries to provide even the most basic services to their people offer opportunities to terrorist groups to use those countries' territories as safe havens and staging grounds for their operations. Building viable political institutions in so-called failed or failing states, aimed at regaining territorial control, must for that reason be part of a long-range counter-terrorism strategy. Importantly, the UN Charter is no longer taken as a barrier to international interference in states with weak institutions. Thus, since the mid-1990s, the Security Council has authorized military interventions in states unable to prevent a humanitarian catastrophe (Somalia), following the deposition of the elected head of government (Haiti), and in the wake of economic collapse and social disorder (Albania).<sup>41</sup> In the aftermath of the 9/11 attacks the attention of the UN was focused immediately on another state with a weak central government, Afghanistan. Taking the security concerns of the US seriously, the Council adopted a resolution paving the way for the US-led operation "Enduring Freedom" against the Taliban regime because of its support to Al-Qaeda. However, the core problem at present lie not as much in obstacles to taking action against states lacking the capacity to undertake their obligations. The problem is the

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39) *Ibidem*, p. 50.

40) *Ibidem*, p. 50.

41) See Simon Chesterman, Michael Ignatieff, and Ramesh Thakur, *Making States Work. From State Failure to State-building* (New York: International Peace Academy, July 2004), p. 8.

lack of political resolve to do so against states that in spite of their having effective institutions refuse to comply with their commitments. Clearly, this failure might breed US unilateralism.

### **Counter-proliferation**

The proliferation of weapons of mass destruction, that is to say the spread of nuclear, chemical and biological weapons (NBC),<sup>42</sup> poses a growing threat to international stability. To be sure, the number of states at present trying to acquire NBC weapons, particularly nuclear weapons, is far less than predicted during the Cold War.<sup>43</sup> More than four decades ago US president Kennedy warned that within a decade fifteen to twenty-five states might obtain nuclear weapons.<sup>44</sup> Apparently, this warning had the strength of a self-denying prophecy. To date, the number of nuclear states is limited to five “official” nuclear weapons states (the US, Russia, China, Great Britain and France) and three de facto ones (India, Pakistan and Israel).<sup>45</sup> Since the early 1990s, a number of positive developments have occurred. Argentina, Brazil, and South Africa voluntarily renounced nuclear weapons and acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), placing their nuclear programs and materials under the safeguards of the International Atomic Energy Agency (IAEA). South Africa even dismantled existing nuclear devices. Furthermore, the newly independent states of the former Soviet Union (like Ukraine and Kazakhstan) were willing to transfer inherited arsenals to Russia and agreed to sign the NPT as non-nuclear weapons states. As far as addressing the threat of chemical weapons is concerned, in 1997 the Chemical Weapons Convention (CWC) entered into force. Since then, twelve states (among them the US, Russia and China) have declared their intent to destroy existing chemical weapons production facilities. Libya’s decision in 2004 to dismantle its NBC programs under the terms of the IAEA and the Organization for the Prohibition of Chemical Weapons (OPCW) was hailed as another victory in the non-proliferation campaign.

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42) Radiological weapons (“dirty bombs”) may be added to the three categories. These weapons, which can rely simply on radioactive materials, are more weapons of mass *disruption* than mass *destruction*. Their immediate destructive effect is only as great as a conventional explosive while their radiation effects are likely to be limited.

43) The factual overview in this section largely derives from the report of the International Peace Academy *Weapons of Mass Destruction and the United Nations: Diverse Threats and Collective Responses* (New York, June 2004). The author wishes to acknowledge the drafters of the report.

44) *The New York Times*, March 22, 1963, p. 4.

45) Iran and North Korea are widely believed to have covertly developed the capacity to build nuclear weapons. On February 10, 2005, the government of North Korea announced that the country had developed a nuclear capability.

But the bad news is that NBC weapons have become more accessible. As to nuclear weapons, ample time has passed for significant diffusion of nuclear technology and know-how. A black market has emerged. Since the NPT actually promotes the peaceful use of nuclear equipment and materials, states cannot be blamed for pursuing this option. But the main problem arises from the fact that technological advances have further blurred the distinction between the use of nuclear technology and materials intended for peaceful and for military purposes. More countries have made determined efforts to acquire technology to produce the fissile material useable in nuclear weapons. Advances in chemical and biological research have equally shown the dilemmas of dual-use technology by creating new opportunities for malicious purposes. As indicated before, the prospect of terrorist organizations gaining access to NBC weapons has added a special dimension to the threat of man-made mass destruction. As will be further explored in the next section, terrorists are more likely than governments of established states to use these weapons as soon as possible after acquiring them, rather than maintaining them for deterrence.<sup>46</sup>

One of the inherent weaknesses of the NPT is that state parties, under the guise of compliance with treaty obligations, can develop all necessary components for a nuclear weapons program, including the stockpiling of fissile materials, and then withdraw from the treaty – like North Korea did in 1993 – to develop nuclear weapons. This so-called breakout capacity that state parties may develop should make us aware of the limitations of judging political intentions by means of technical measurements. Another weakness of the Treaty not only stems from its lacking a permanent administrative body<sup>47</sup> but from the incongruity of the objectives of the Treaty and the IAEA, constraining the role of the Security Council. State compliance with IAEA safeguards agreements is not analogous to compliance with obligations under the NPT. Thus, for example, the IAEA safeguards are not applied to technology that could be used for the development of a nuclear device. Moreover, the Agency cannot inspect beyond what had been declared by member states. Consequently, while the safeguards system may be able to detect inconsistencies in state declarations, safeguards cannot prevent proliferation. On the other hand, the NPT does not directly assign a responsibility to the Security Council in cases of possible non-compliance with its safeguards agreements. Certainly, the IAEA Statute allows the Board of Governors of this organization to refer such cases to the Council, but the

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46) *Ibidem*, p. 3.

47) A poor substitute for supervising the implementation of the treaty, every five years a so-called review conference takes place, which tends to be burdened by the pressure of reaching consensus on a final document. The next NPT Review Conference is due to take place in New York, May 2005.

Chinese and Russian representatives to the Board have frequently objected to referrals to the Security Council.

In contrast with the NPT and also the Biological Weapons Convention (BWC), the CWC has established a robust implementation framework outside the United Nations. It has developed its own restrictions on export of dual-use technology and set up a comprehensive verification framework. Much implementation work, though, remains to be accomplished whilst many components of the regime are as yet untested. Moreover, only a fraction of the global chemical weapons stockpile has been destroyed and many countries of concern (among them Egypt, Israel, Syria and North Korea) have chosen to remain outside the Treaty. The picture of the implementation of the BWC, which amounts to “little more than a gentleman’s agreement”, is outright gloomy. In spite of advances in biotechnology and genetic engineering, disagreements over proper investigative approaches have prevented understandings on strengthening verification measures.

The weaknesses in the non-proliferation regime prompted the US and its allies to put greater emphasis on so-called ad-hoc initiatives and unilateral responses to address gaps in the treaties until these could be closed in the negotiations process. Examples are the Nuclear Suppliers Group focusing on further restrictions in the exports of nuclear technology and materials to prevent the spread of nuclear weapons and the Australia Groups that seek to ensure, through licensing measures, that the exports of certain chemicals, biological agents, and dual-use chemical and biological manufacturing facilities and equipment do not contribute to the spread of chemical and biological weapons. Another example is the Nunn-Lugar Program in 1991, commonly known as Cooperative Threat Reduction (CTR). The purpose of CTR is to reduce threats posed by poorly guarded NBC arsenals of the former Soviet Union, among others, by eliminating outdated stockpiles. From the point of view of strengthening the treaty regimes, a cause for grave concern is that, more recently, unilateral responses have risen even more in prominence as *alternatives* to enhancing the multilateral framework.<sup>48</sup> Expressing the need for early and forceful action against proliferating states the US became reluctant to engage in any multilateral negotiations. It formally retreated from a number of international nonproliferation frameworks, such as the Anti-Ballistic Missile Treaty (ABM), the Comprehensive Test Ban Treaty (CTBT), and the Ad Hoc Group for the BWC. The terrorist attacks of 9/11 fuelled a flurry of new unilateral initiatives. They included the Proliferation Security Initiative (PSI), involving efforts to interdict maritime and air shipments suspected to contain NBC-related cargoes, and the G8 Global Partnership, committing the members of the G8 to spend up to \$20 billion over ten years for threat reduction projects.

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48) *Ibidem*, p. 7.

A source of wide controversy became the direct involvement of the Security Council with international weapons inspections in Iraq after the defeat of Saddam Hussein in the Gulf War of 1990-91. While the UN Charter highlights the authoritative role of the Security Council in addressing threats to international peace and security, the Council was not believed to have a direct mandate to deal with specific NBC proliferation threats.<sup>49</sup> Either a formal resolution by the Council itself, declaring its authority to address nonproliferation violations, or specific recommendations made by the General Assembly was required for any enforcement role. By establishing the United Nations Special Commission (UNSCOM) in 1991 and the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) in 1999 the Security Council charted new territory. Special Security Council Resolutions authorized both UNSCOM and UNMOVIC to uncover and dismantle Iraq's NBC and ballistic missile programs. Disagreements among the five permanent (and veto wielding) members of the Council, the so-called P-5, about the effectiveness of the inspections carried out by the two Commissions, as well as how to respond to the alleged lack of cooperation on the part of the Iraqi authorities in implementing the Resolutions, resulted in the US decision to bring military force to bear on Iraq in March 2003. This development was generally taken as a clear sign of the failure of the UN system to ensure peace and stability in cases where the strongest member state could not be brought in line with lesser contenders. Dissension among the P-5 about the appropriate action to be taken against other countries being under suspicion of committing arms proliferation (first and foremost North Korea) led to selective enforcement of the NPT treaty

What can be done to remedy the numerous shortcomings in the campaign to counter proliferation? The report of the High-level Panel advocates a comprehensive approach that comprises (1) better strategies to reduce demand for NBC weapons, (2) better strategies to reduce supply and (3) better enforcement capability.<sup>50</sup> Thus, nuclear-weapon states must honor their commitments under Article VI of the NPT to move towards nuclear disarmament. They should also reaffirm their previous commitments not to use nuclear weapons against non-nuclear-weapon states (so-called negative security guarantees). At the same time, the Security Council should explicitly pledge to take collective action in response to a nuclear attack or the threat of such attack on a non-nuclear weapon state (so-called positive security guarantees). Furthermore, the conclusion of a fissile material cut-off treaty is imperative. Putting a hold on additional facilities for uranium enrichment and plutonium separation could also diminish the proliferation threat. After all, the nuclear industry has more than enough capacity to fuel its power plants

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49) Security Council Resolution 1540, criminalizing NBC proliferation to non-state actors, assigns the Council with a clear enforcement role on this issue.

50) *A more secure world*, pp. 43-46.

and research centers. World security may also be strengthened by speeding up existing efforts to modify the research centers worldwide operating with highly enriched uranium, especially those with metal fuel that could be readily employed as bomb material. There is the technical possibility to convert these reactors to use low-enriched uranium.<sup>51</sup> As to inspection and verification rules, it is generally understood that the rules that have governed IAEA through the mid-1990s have proven increasingly inadequate. Therefore, the Agency initiated more stringent inspection rules in the Model Additional Protocol. Thus far, only one third of the states parties to the NPT have ratified the Protocol. Following on President Bush and others, the High-level Panel urges the IAEA Board of Governors to employ the Model as today's standard for the Agency's safeguards.

The case of Iraq under Saddam Hussein's rule illustrates the importance of the capability of the Security Council to generate credible information about potential instances of proliferation. In order to strengthen that capability the directors-general of IAEA and OPCW should be invited by the Council to report to it twice a year on the status of safeguards and verification processes, as well as on any serious concerns they have. Insofar as these concerns are related to the problem of breakout capacity, the High-level Panel holds that a state's notice of withdrawal from the NPT should prompt immediate verification of its compliance with the Treaty, if necessary mandated by the Security Council. Last but not least, it reflects the view of many that the Security Council must be prepared to act in cases of serious concern over non-compliance in these and other cases. Again, the question arises over whether there will be enough political unity and resolve among the P-5 to expect the Security Council taking forceful action, among which the authorization of military force to be used by member states.

### **The use of military force**

One of the main ingredients of any security order are the rules governing the use of force, including the *ius ad bellum*. The UN Charter, which is the basic law of the present security order, expressly prohibits member states from using or threatening force against each other. The two well-known exceptions are enforcement measures authorized (or mandated) by the Security Council under Article 42 of Chapter VII and individual or collective self-defense against an armed attack under Article 51 of the same chapter. The legal regime of the UN underscores the primary responsibility of the Security Council for the maintenance of international peace and security. But the

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51) Both proposals, in addition to other proposals, have been made by Mohammed Elbaradei (the director-general of the IAEA). See his article 'Seven steps to raise world security', *Financial Times*, February 2, 2005.

legitimacy of the Council to determine the lawfulness of military actions by member states may be questioned. Not only does the composition of the Security Council hardly mirror the balance of political and economic forces in today's world, too many of its members are susceptible to criticism because of their poor human rights record. Moreover, there is a difference between legitimacy and legality of any political institution related to the widely held belief that moral principles may override legal norms. What especially has some superficial attraction is the argument that, morally speaking, the community of democratic nations constitutes a better forum than a UN council to serve as arbiter for distinguishing between the perpetrators and the victims of international aggression, even though the rules of international law stipulate otherwise. After all, there is ground for the claim that democratic polities are inherently peaceful since the historical record shows that democratic states do not fight with each other.<sup>52</sup>

Still, on reflection, the argument is not persuasive. While the nature of their constituent parts (democratic or not) may be an important source of legitimacy of international organizations, no less important or even more important is the scope of their representation. As a world organization the UN derives its legitimacy first and foremost from its universality, that is to say from the fact that it can speak and act on behalf of all nations in the world and that all those nations are answerable to it on matters of international peace and security. In this respect, the UN signifies a major step forward in comparison to the pre-WW II League of Nations, which fell clearly short of the standard of universal membership. As Secretary-General Annan stated in reaction to the killings in Darfur (Sudan): "while the United Nations may not be able to take humanity to heaven, it must act to save humanity from hell".<sup>53</sup> The UN is based on a set of ground rules that can be shared by democratic and non-democratic states alike. To base the legitimacy of the application of military force on decisions of exclusive groups of countries like the Western Alliance under US leadership, is likely to entail more political damage than advantage. First of all, it is a form of unilateralism. A limited group of nations belonging to the most prosperous countries would be taking the law into their own hands. Second, it creates the risk of tempting ruthless dictators to disregard international law. Apparently, this danger was also recognized by the NATO allies that had used military force in the spring of 1999 to stop Serbia from committing violence in Kosovo. The military action was taken without prior approval of the Security Council but once the relations with Russia had improved, the Western countries deliberately and successfully sought authorization by the Council afterwards.

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52) See Morton H. Halperin, Joseph T. Siegle and Michael Weinstein, *The Democratic Advantage: How democracies promote peace and security* (New York: Routledge, 2005).

53) Annan urges Security Council to take action against killings, displacement in Darfur, Sudan, *UN News Centre* home page (18 February 2005).

Need the rules regarding the use of military force to be adapted in view of the new security threats? To start with, terrorist organizations can now inflict the kind of damage only states fighting wars used to be able to achieve. Clearly, the traditional policy of containment and deterrence applied against states offers insufficient protection from attacks by these organizations. Terrorists whose hatred towards others is stronger than love of their own life cannot be deterred by threats of retaliation, in as much as these threats could be implemented in the first place. Indeed, terrorists do not represent a state that can be hit by attacking its territory and/or population. Responsible governments cannot be expected to passively wait for the moment when a terrorist attack had destroyed one or more valuable targets in their societies. As was boldly stated in the US National Security Strategy document of September 2002:

“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 attack. To forestall or prevent such hostile acts by our adversaries, the U.S. will, if necessary, act preemptively.”<sup>54</sup>

This position is quite understandable in as much as governments’ political fortunes will depend on their ability and resolve to forestall clear and immediate present dangers.

An important distinction is that between *pre-emptive* and *preventive* action. Are threats imminent or not? Are there clear signals or indications that a would-be attacker is on the verge of launching an attack or not? If so, invoking the right to anticipatory self-defense should be endorsed since the required approval of using military force by the Security Council would certainly arrive overtime. The June War of 1967 is often referred to as a striking example of an excusatory pre-emptive action in response to an imminent threat. Israel decided to attack its neighboring states because an attack by these states on Israel was widely deemed very proximate. But from a strictly legal point of view Israel’s action was highly debatable. Peter Kooijmans, for one, points out that the right to anticipatory self-defense is precluded by Article 51 of the UN Charter since it only allows for self-defense in case of an armed attack, even if that concept is interpreted rather flexibly. The ICC Judge even argues that the notion of anticipatory self-defense is entirely contrary to the post-World War II criteria for the *ius ad bellum*.<sup>55</sup> The

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54) *National Security Strategy of the United States*, Chapter V, see: <http://www.state.gov/t/pa/ei/wh/c7889.htm>.

55) Peter Kooijmans, ‘Is There a Change in the Ius ad Bellum and, if so, What does it Mean for the Ius in Bello?’ in Liesbeth Lijnzaad, Johanna van Sambeek and Bahia Tahzib-Lie (eds.), *Making the Voice of Humanity Heard* (Leiden/Boston: Martinus Nijhoff Publishers, 2004), pp. 228-229.

obvious counter-argument is that these criteria are outdated; they do not fully recognize the new security environment and must be adapted indeed. As reason and common sense would dictate,<sup>56</sup> in a world where the price of inaction might be written in uncountable numbers of victims and physical destruction the right of states to defend in order to pre-empt attacks on their territory cannot be in dispute.

Rather than to a fundamental principle of law, the High-level Panel refers to a weaker legal foundation to arrive at about the same conclusion: the evolution of customary law. It considers the development of this branch of international law unambiguous enough so as to renounce the option of rewriting Article 51 of the UN Charter. Recalling that Chapter VII fully empowers the Security Council to deal with every kind of threat that states may confront, it literally says that this article needs “neither extension nor restriction of its long-understood scope”.<sup>57</sup> While *pre-emptive* action is considered lawful under some circumstances, *preventive* action is definitely not. The latter type of action entails starting military operations against a state that might, at some future point, pose a threat. The Panel gives a short answer to those who argue that also non-imminent or non-proximate threats may justify military action since the potential harm from terrorists or rogue States armed with nuclear weapons is so great that one simply cannot risk waiting until such threats become imminent. If there are good arguments for preventive military action, rooted in solid evidence, “they should be put to the Security Council, which can authorize such action if it chooses to. If it does not so choose, there will be, by definition, time to pursue other strategies, including persuasion, negotiation, deterrence and containment – and to visit again the military option.”<sup>58</sup>

The Panel’s position on this vital issue should be criticized as much too easy a way-out from the quandary of the Security Council’s incapacity to act when action is imperative. It is one thing to block the road to unilateral decisions by member states when it comes to dealing with future threats. It is quite another, however, to acquiesce to the paralysis the Security Council has repeatedly demonstrated in the past because of the lack of consensus among the P-5. The failure of the Security Council to act is also particularly relevant when one faces acts of genocide or large-scale violations of human rights. The principle of non-intervention, as the logical corollary of state sovereignty, was

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56) I owe this formulation to Prof. F.J.J. Feldbrugge.

57) *A more secure world*, p. 61. A similar position is taken in the report *In larger freedom*. The report states (p. 33): “Imminent threats are fully covered by Article 51, which safeguards the inherent right of sovereign States to defend themselves against armed attack. *Lawyers have long recognized that this covers an imminent attack as well as one that has already happened*” (italics added).<sup>58</sup>

58) *Ibidem*, p. 63.

one of the main pillars of the Westphalian state-system.<sup>59</sup> Over the past decades, there is growing recognition that state sovereignty not only implies the exclusive jurisdiction over a particular territory but also the responsibility of the state to protect the people living within its national borders against physical and non-physical violence.<sup>60</sup> In the event of a state being unwilling or unable to fulfill this responsibility or, even worse, being the main source of acts of brutality, the *international* responsibility to protect people must override state sovereignty. The legal basis of setting aside the principle of non-intervention under conditions of ethnic cleansing and other crimes against humanity is to be found in the responsibility of the Security Council for the maintenance of international peace and security under Article 24 of the UN Charter.

It has been a point of debate whether brutalities arising from political repression in a particular country may be conceived as a threat to the security of other countries. Did the Pinochet regime of Chile of the 1970s or Franco Spain much earlier, refusing to join the Axis powers in their battle against Western democracies, really pose a threat to adjacent countries? While these specific historic references may not be convincing to make the point of any causal link between human-rights violations and war it can be argued that the world as a whole would become a much safer place if states were in compliance with standards of humanitarian law. Either way, the High-level Panel takes the view that genocidal acts or other atrocities “can properly be considered a threat to international security”.<sup>61</sup> Reviving the ancient just-war doctrine, the Panel identifies a set guidelines, basically five criteria of legitimacy, which should always be addressed in considering whether to apply or authorize military force: (1) seriousness of threat, (2) proper purpose, (3) last resort, (4) proportional means, and (5) balance of consequences.<sup>62</sup> The

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59) Apparently, representatives of China believe that the principle of non-intervention is still the bedrock of the present international system. One of the country’s former ambassadors, Zhan Shiliang, recently wrote an article, entitled “Non-interference in Other Nation’s Internal Affairs is the Most Important Principle of the *New Order* (italics added) of International Relations”. See *International Studies* (Journal of the China Institute of International Studies), Vol. 5, September 2004, p. 1.

60) See, for instance, the path-breaking Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, December 2001).

61) *A more secure world*, p. 65.

62) *Ibidem*, p. 67. The criteria of the High-level Panel largely corresponds with the guidelines proposed by Barend ter Haar in his Clingendael study *Peace or Human rights? The Dilemma of Humanitarian Intervention* (August 2000). The author identifies the following six criteria for a decision to intervene: (1) grave and massive violations of fundamental rights or of the threat of such violations, (2) a clear urgency to act and other means not being available, (3) the primary purpose of the intervention is to stop the violations, (4) the action is supported by those for whom it is intended, (5) the opinions of the countries in the region have been

difficulty of applying criteria like these, of course, is that armed interventions usually give rise to unforeseen and unintended consequences, nor would it always be easy to make sound judgments on the necessary means to be used or the likelihood of success.<sup>63</sup>

Coming back to the problem of the Security Council's irresolution, it is understandable that the Panel did not question the right of veto of the permanent members as such. Indeed, it would have been quite unrealistic to come up with proposals to amend the Charter on this politically sensitive subject. The Panel confines itself to urge that the use of veto be limited to matters of vital interest. It also calls on the permanent members to pledge themselves to refrain from its use in case of genocide and large-scale human rights abuses.<sup>64</sup> Given the seriousness of the problem of seeking collective legitimacy for military intervention, it might have discussed formulas intended to constrain the exercise of veto power, like *The International Commission on Intervention and State Sovereignty* did a few years before.<sup>65</sup> One could think of finding understanding about a code of conduct to the effect that the permanent members can only justify the use of veto if they claim their supreme national interests to be at stake in matters of peace and security. Any permanent member that is invoking a national-interest clause would be required to carry the burden of proof in reference to alleged harm to its national interest. The Security Council could pass, through a special declaratory resolution, a judgment on the reasonableness of the appeal by the veto-using member. Another way-out from decision stalemates in the Security Council is the application of the "Uniting for Peace" mechanism by the UN General Assembly, as employed for the first time in 1950 during the Korean War. The use of this mechanism might especially be considered when regional organizations reach consensus about the necessity of military coercion in their particular region but only one of the Permanent Five refuses to endorse authorization by the Security Council under Article 53.1 of the UN Charter. In a political setting in which the Security Council fails to act, a resolution adopted by the General Assembly by at least two-thirds of its members, however non-binding, can be seen as an important source of legitimacy for military action.

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taken into account, (6) the action has a reasonable chance of success at acceptable costs, and (7) the action is not likely to lead to larger problems.

63) Still, in the report *In larger freedom* Kofi Annan recommends that the Security Council adopt a resolution setting out the criteria of the High-level Panel and "expressing its intention to be guided by them when deciding whether to authorize or mandate the use of force." (p. 33)

64) *A more secure world*, p. 82.

65) See again the report *The Responsibility to Protect*, pp. 51-54. The more radical proposals put forward by the International Commission on State Sovereignty and Intervention may be explained by the simple fact that, unlike the High-level Panel, no representative of China was on the Commission.

Needless to say, any attempt to constrain the veto power of the P-5 requires a forthcoming and accommodative approach of the US. In the run-up to the Iraq War, the Bush administration has castigated the Security Council for its indecisiveness and lack of action to meet the challenge of Saddam Hussein. Indeed, more than a dozen resolutions were passed, yet not one of them was fully enforced. But the expression “you cannot have your cake and eat too” also applies to the US. In other words, should the US be given the opportunity to benefit from more flexible voting rules, thereby circumventing the vetoes of others, it itself could not be exempted from limitations on its veto power. While short-term considerations of the national interest may lead to the conclusion that the cost of infringements on the national freedom to act outweighs the advantages of international legitimacy, in the long run the balance of cost and benefits might change as resentment throughout the world to the unilateral use of American power grows.

## The relevance of conflict prevention<sup>66</sup>

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The strong focus on military enforcement in the previous chapter is not to suggest that efforts to prevent the outbreak of deadly conflicts and other forms of man-made catastrophes are only of secondary importance. On the contrary, the atrocities that occurred since the early 1990s in the Balkans and many African regions have underscored once again that conflict prevention is the prime task in any multilateral framework that seeks to achieve the goal of peace and security. But the point is that the readiness of the UN system to enforce international obligations, if necessary by military means, in itself is an important condition for the effectiveness of preventive strategies. Furthermore, the main obstacle to the success of such strategies is not the lack of information about incipient conflicts or rising tensions between and within states, nor the lack of early-warning and analysis capacity. Research institutions (private and attached to international organizations) command a welter of data about the political fault lines in the world and are capable to point to escalatory and de-escalatory trends. Rather, it is the lack of political

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66) This chapter draws on this author's article 'Effectief multilateralisme: van retoriek naar daadkracht', in *Internationale Spectator* 58 (7/8), juli/augustus 2004, pp. 343-349. For a general discussion about the problems related to a strategy of conflict prevention, see Luc van de Goor and Suzanne Verstegen, 'Shooting At Moving Targets: From Reaction to Prevention', in Alfred van Staden, Jan Rood and Hans Labohm (eds.), *Cannons and Canons. Clingendael views of Global and Regional Politics* (Assen: Royal Van Gorcum, 2003), pp. 270-289.

resolve on the part of UN member states to become actively involved in the early stages of the conflict cycle – that is to say before hostilities break out – that is hampering attempts to forestall deadly quarrels.

Therefore, the proposal of the High-level Panel to strengthen the Office of the Secretary-General, with the purpose of better integrating the information inputs of different agencies and departments,<sup>67</sup> however useful, does not strike at the heart of the problem. This is the weak sense of urgency regarding tension-prone situations that apparently do not look threatening yet but have high potential to become explosive in the near future. Perhaps another institutional proposal by the Panel, the establishment of a Peacebuilding Commission with a direct link to the Security Council, might be taken as a somewhat larger step in the right direction. The core functions of this relatively small body are thought to be, among other things, the identification of countries that are under stress and risk sliding towards state collapse, and to organize in partnership with the national governments concerned proactive assistance to prevent the possible breakdown of the central structure of political authority.<sup>68</sup> At present, around 40 percent of post-conflict countries fall back into fighting for want of adequate support in matters such as policing, the organization of elections, training new judges and so on. The proposed Commission could also be involved in preparing high-profile debates in the Security Council, with participation of countries that have suffered recently from armed conflicts, about potential escalatory crises in the world. The debates, to be conducted on the basis of sound risk-assessments presented by the Secretary-General, may be instrumental in mobilizing general support for policies of conflict prevention.

Currently there is an outright imbalance between the resources the UN uses for dealing with the consequences of armed conflicts and resources being employed for preventing them. Thus, at the end of 2004, the world organization deployed more than 60,000 peacekeepers in 16 missions around the world.<sup>69</sup> But none of these missions was concerned with preventive deployment; in all cases the purpose was to make sure hostilities did not start again while helping the conflict-ridden country or region stabilize in general. In theory, the Security Council commands a vast arsenal of instruments for conflict prevention, varying from the sending of fact-missions, diplomatic missions, economic sanctions, and the stationing of military troops. The reality is, however, that a culture of reaction to crises, rather than of anticipation, still pervades the operations of the Security Council. Elizabeth Cousens has analyzed the limitations and constraints in the use of available instruments. She identifies four main causes of UN weakness: normative limitations, strategic uncertainty, limits to operational capacity and political

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67) *A more secure world*, p. 37.

68) *Ibidem*, pp. 83-84.

69) *Ibidem*, p. 68

restraints.<sup>70</sup> The first thing to recognize is the resistance in the world organization to taking over the responsibility of national governments for the maintenance of domestic peace and order, particularly when intervention in one of the larger member states is under discussion. Surely, the idea of the international responsibility to act in order to protect the people of a country when the government of that country itself abdicated responsibility has, as indicated before, gained momentum. But a large number of member states are still staunch defenders of the idea of national sovereignty.

In addition, there appears to be insufficient knowledge of what forms of UN involvement with impending crises are in specific cases likely to be effective or not. What political models and pacification strategies can be expected to create long-term stability in deeply divided societies such as Sri Lanka or Sudan? How to establish the core functions of political authority in failing or failed states such as Somalia and Liberia? Furthermore, in spite of the existence of the *UN Stand-by Arrangements System (UNSAS)*, under which a number of member states accepted the obligation to make troops available for UN operations at short notice, there is a lack of rapid-reaction forces that can be deployed at great distance. Obviously, this diminishes the options of the UN to take effective action, if necessary. Once faced with incipient escalation, speed is of the essence. Another obstacle stems from the reluctance of the larger countries, the Permanent Five in particular, to permit any interference from the UN in conflicts that rage in their sphere of influence. The examples of Russia's dealings with Chechnya, China and the position of the Islamic minorities in the Western part of the country, and the attitude of Great Britain towards the conflict in the Northern Ireland, are highly significant in that regard.

The difficulty of remedying the shortcomings of the UN system have led many to set their hope on regional organizations, particularly the world organization is in practice dependent on regional powers that possess adequate military capabilities for stabilization functions. This dependence is amply shown by the intervention of Australia in East Timor, the US in Haiti, Great Britain in Sierra Leone and France in several other African countries. As a consequence, strengthened cooperation of the UN with regional organizations seems to hold the greatest opportunity to remove a number of obstacles on the road towards conflict prevention. In doing so, the UN would pursue a course of action resulting in an increasing role of regional organizations in the implementation of peace-support operations. The regional organizations should include both the classic arrangements under Chapter VIII of the UN Charter (among them the OSCE) and organizations

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70) Elizabeth M. Cousens, 'Conflict Prevention', in David M. Malone (ed.), *The UN Security Council. From the Cold War to the 21st Century* (Boulder. Colorado: Lynne Rienner Publishers, 2004), pp. 111-114.

that, like NATO, had been established for collective defense or, like the European Union, were founded for economic cooperation.

As early as 1992, the then UN Secretary-General Boutros Boutros-Ghali restated the case for regional approaches to peace and security. A key passage in his well-known report *An Agenda for Peace* reads as follows:

“regional action as a matter of decentralization, delegation and cooperation with United Nations efforts could not only lighten the burden of the [Security] Council but also contribute to a deeper sense participation, consensus and democratization in international affairs.”<sup>71</sup>

The arguments in favor of regionalization in security matters are not only the deeper sense of responsibility by member states for the prevention of conflicts in their own region and, consequently, their greater willingness to make sacrifices for that purpose. It is also the vaster knowledge and experience regional organizations have accumulated in their own geographic setting. Such organizations have a better understanding of the cultural and historical context of regional conflicts. Nevertheless, one cannot turn a blind eye to the potential risks of the involvement of regional organizations. There is a trade-off between the greater *legitimacy* of the world organization and the greater *effectiveness* of the regional players.<sup>72</sup> On the one hand, thanks to its universal scope, the UN is closely meeting the standard of legitimate action on behalf of the “world community”. On the other hand, the *modus operandi* of the UN is slow and time-consuming; the organization lacks the sort of command structure and logistic facilities that are needed for the conduct of complex military operations. Conversely, an organization like NATO, having prepared for such operations, can be expected to sustain the capability for rapid and effective action. But this organization enjoys limited legitimacy since non-members may see it as a vehicle of particularly the lead-nation, *i.e.* the US, to expand its sphere of influence over politically uncharted territories. At any rate, this was Russia’s perception of one of the drivers behind NATO’s Kosovo operation (*Allied Force*) in 1999.<sup>73</sup>

Additionally, there is the risk that regionalization might undermine the moral authority of the UN. After all, the UN’s authority is based on the principle of indivisibility of peace. The world organization is supposed to offer equal protection to all member states, regardless of their geographic location. In Marrack Goulding’s opinion, the ethics of universalism is hard to reconcile with having the quality of protection for people in particular regions depend

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71) *An Agenda for Peace*, par. 64.

72) See the report of the (Netherlands) Advisory Council of Peace and Security, *Innocence Lost: The Netherlands and UN Operations* (The Hague, 1996), pp. 33-37.

73) For the Russian view, see Nadia Alexandrova Arbatova, *Russia and NATO: a Russian View* (Tilburg: Tilburg University Press/Purdue University Press, 2000), pp. 56-59.

on the widely divergent capacity of regional organizations in those regions.<sup>74</sup> Radical regionalization in the domain of peace and security could lead to – what has been called – “peacekeeping apartheid”. It may nourish the thought that it is not worthwhile to shed own people’s blood in far-away countries where conflicts are often believed to be endemic. Another consideration cautioning against putting all cards in the regionalization basket would be that large parts of the world (for instance, Asia) are still awaiting the creation of security organizations that can do anything more than serve as a platform for dialogue, while organizations that have been established in other parts (for instance, Africa) still have to be equipped with the necessary resources for making them effective.

So what has to be done? First of all, in view of the primary responsibility of the UN Security Council for the maintenance of peace and security in the world, the world organization must be able to supervise the implementation of peace support operations by regional organizations. To this end, these organizations should accept the obligation of reporting periodically to the UN about the course of operations for which they have assumed responsibility. Arrangements have to be worked out about mutual support and the modalities of consultations between the two sides to take place on the basis of progress reports. Likewise, there should be a clear understanding of what the UN and the regional organizations might expect of each other. A workable division of labor has to be agreed upon in order to avoid any duplication of efforts.<sup>75</sup> By the same token, the High-level Panel report, acknowledging that regional organizations can be a vital part of the multilateral system, recommends that consultation and cooperation between the UN and regional organizations should expand. The drafting of a formal agreement could be considered, calling for meetings of the heads of organizations, more frequent exchange of information and early warning, as well as co-training of civilian and military personnel.<sup>76</sup> In the case of African regional and subregional capacities, the report also wants donor countries to commit to a 10-year process of sustained capacity-building support within the African Union strategic framework. Regional organizations that have a capacity for conflict

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74) Marrack Goulding, *Peacemonger* (London: John Murray, 2002), p. 218.

75) See about this subject Michael Pugh, ‘*The World Order of Regionalization*’, in Michael Pugh and Waheguru Pal Singh Sidhu (eds.), *The United Nations and Regional Security. Europe and Beyond* (Boulder, Colorado: Lynne Rienner, p. 2003), p. 39. Particularly about the relationship between the UN and NATO, Dick Leurdijk’s contribution to this book ‘*The UN and NATO: the logic of primacy*’, pp. 57-74.

76) In the report *In larger freedom* the UN Secretary-General states his intention to introduce memoranda of understanding between the UN and (sub-)regional organizations, “governing the sharing of information, expertise and resources, as appropriate in each case”. (p. 52)

prevention or peacekeeping should place such capacities in the framework of UNSAS.<sup>77</sup>

The realization of these and other proposals cannot guarantee, of course, an untroubled relationship between the central and regional level. But it might help to reduce the inherent tension between the legal and moral authority of the UN and the vast military and economic power of full-fledged regional organizations such as NATO and the European Union. It is to the role of the latter that the next chapter is devoted.

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77) *A more secure world*, pp. 85-86. See also *In larger freedom*, p. 52.

## The role of Europe<sup>78</sup>

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The European Union seeks an active role in helping to shape a better and more secure international order. As pointed out above, the attainment of effective multilateralism in the world is one of the main objectives of the European Security Strategy. The EU itself may be considered the most advanced and successful application of the idea of effective multilateralism to date. From an idealist point of view, the European integration project serves as a role model because it demonstrates that interstate relations are not doomed to exist in a perennial state of anarchy, as power realists would have it. Provided important conditions are met, regional groups of countries can be organized through strong, negotiated and enforceable multilateral regimes. This is the signal the EU, by its very existence, seems to send to the world. However, the successful launch of the European integration experiment in the early 1950s is hard to imagine without bearing in mind the legacy of WW II and the impact of the outbreak of the Cold War. The Union represents a rule-based system which was developed to manage bonds of interdependence and increase the capacity for political action in the face of the felt need to coordinate and even harmonize national policies. Law-enforcement does not depend on physical coercion but on mutual interference in one another's domestic affairs and the acceptance of supranational rule adjudication. The EU embodies intensive cooperation among a large group of states that have been willing to pool their sovereignty in several fields of public policy.

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78) The denotations "Europe" and the "European Union" are inevitably used interchangeably.

Repeating the point made in an earlier section of this study, the autonomy of the EU's constituent parts is much greater than in state-like formations but much less than in a normal international organization.

Although of all integrative policy domains the autonomy of EU member states is largest in the field of classic foreign policy, the Union can claim to be an international actor in its own right.<sup>79</sup> Ever since the entering into force of the Treaty of Maastricht (1993), a Common Foreign and Security Policy (CFSP) is evolving, and has come to include military cooperation. While its effectiveness still very much depends on the ability of France, Great Britain and Germany to reach consensus, joint institutions have been set up to represent the EU to other countries. The new constitutional treaty calls for the introduction of a European minister of foreign affairs, combining the present offices of the High Representative for the CFSP and the Commissioner for External Relations. The future incumbent will chair the monthly meetings of the 25 foreign ministers and also sit in the European Commission as a vice-president. The rationale of combining the two offices is to achieve better coordination between European diplomacy in the domain of intergovernmental cooperation and those parts of EU's external relations that are formally embedded in EU's community framework, *i.e.* foreign trade and international development.

The international contribution of the EU can be divided in three categories: (1) independent action at the regional and the global level, (2) support to the UN in crisis management and peace building, and (3) building a balanced partnership with the US.

### **Independent action**

The ambition of the EU not only is to shape Europe's regional environment, but also to influence the global system. By adopting the view that the nature of international society depends on the quality of the governments of its constituent units, the EU embraces, in fact, the conception of "democratic peace" which has become so familiar in international relations theory. The security strategy document literally says: "[the] best protection for our society is a world of well-governed democratic states".<sup>80</sup> Furthermore, the EU's foreign interventions reflect the modern assumption that security should not be understood exclusively in military terms but must be put in the wider context of eliminating the causes of economic and social threats. Cynics might argue that this gravitation towards comprehensive security is one "by default"

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79) See Wolfgang Wessels, 'The EU as a Global Actor: Concepts and Realities', in John Leech (ed.), *Whole and Free. NATO, EU Enlargement and Transatlantic Relations* (London: The Federal Trust, 2002), pp. 141-161.

80) *European Security Strategy*, p. 16.,

since the Union, lacking massive military power, is forced to rely on soft-power instruments. While for obvious reasons this argument cannot be rejected out of hand, it does not do justice to the impact of post-WW II European experience. This seems to suggest that spreading good governance, supporting social and political reform, as well as establishing the rule of law and protecting human rights are the best means of strengthening international order.

By enlarging itself with the former communist countries in Central and Eastern Europe the EU has been very successful in persuading post-communist countries to adopt its democratic and peaceful ways. It is hard to overestimate the Union's contribution to the transformation of Europe. The security community that was developed in one half of the continent, leading to the elimination of expectations of war of nations towards each other, has recently been expanded to the other half. Under the weight of EU pressure, potentially explosive minority problems in candidate member states have been resolved by new constitutional arrangements or bilateral agreements between countries involved. The carrot of future membership turned out to be a powerful lever for encouraging democratization and liberalization. Further enlargement will also encapsulate regions, like the Balkans, that not long ago were torn apart by bloody wars. The EU's proven transformational power on the European continent belies the contention that the Union represents a political force that is wedded to the status quo.

At the same time, there is recognition of the limits to the EU's potency to absorb sources of instability, with Turkey's membership as a clear bone of contention. The Union has lived up thus far to the adage that it is better to "brusselize" unstable regions outside one's borders than being "balkanized" inside. The underlying motive is clear: if neighboring countries cannot be relieved of poverty and social distress, they are likely to export their problems to the home territories of EU member states. Needless to say, organized crime, illegal immigration and trafficking of different sorts, may undermine the fabric of European societies. But widespread fears that the EU will get overstretched and lose its coherence if it goes on to expand ever more have prompted the European Commission to design special forms of association as an alternative to full-fledged membership. These special links are the foundation of the EU's assistance programs to countries that are located in its Eastern and Southern periphery. In pursuing a so-called European Neighborhood Policy it builds on partnership agreements that have been concluded in the past with the Mediterranean countries (the "Barcelona process") and Russia and Ukraine.<sup>81</sup> Comprising as many as 16 countries

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81) See the European Commission's strategy paper *European Neighbourhood Policy* (Brussels, 12 May 2004). Russia, averse to being lumped together with EU's smaller neighbors, holds a special status. The EU and Russia have decided to develop their strategic partnership

(including those in the south Caucasus) and the Palestinian Authority, the Policy is aimed at creating zones of economic prosperity and security across the Union's borders. In doing so, the Union hopes to prevent the emergence of new dividing-lines between the enlarged EU and its neighbors.

In addition to enlargement with new member states and establishing "a ring of friends" around its borders, the EU also attempts to influence developments far outside Europe and surrounding regions. Posing itself as "a force for good" the Union is committed to advance the cause of human rights and good governance in different corners of the globe. In accordance with its reputation of being predominantly a *civilian power*, the EU's main instruments to achieve these goals are, besides diplomacy, trade preferences (access to markets), humanitarian and economic assistance. For many years, the Union attached particular importance to its relations with developing countries. Thus, the EU concluded special association treaties with the Lomé states<sup>82</sup> in Africa, the Caribbean and the Pacific region (many of whom are former colonies of EU member states), providing these countries a privileged position in return for their obligation to implement domestic reforms. Europe (that is to say the European Union and its member states) can boast to be the biggest aid donor in the world. Total European contribution amounts to about 30 billion euros per year, which is about 55 percent of total aid flows to more than 160 countries and organizations world wide.<sup>83</sup> Finally, subscribing to the promotion of universal values and the avoidance of conflicts by non-military means, the EU has adopted the notion of *preventive engagement*, calling for action "before countries around us deteriorate, when signs of proliferation are detected, and before humanitarian emergencies arise".<sup>84</sup> This notion was intended to mark the EU's own position towards the putative American preference for preemptive military action.

### **Support to the UN**

While endorsing the view that the UN Charter is the fundamental framework for present-day international relations, the European Union considers strengthening the world organization a European priority. This is not just a pious intention. The Union provides the bulk of financial contributions to the

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further through the creation of four common spaces, as defined at the 2003 St. Petersburg summit.

82) On 23 June 2000 the post-Lomé IV Agreement was signed in Cotonou (Gabon) between 77 ACP countries and the EC. See Elisabeth de Vos, 'The Cotonou Agreement. A Case of Forced Regional Integration?', in Kreijen, op. cit., pp. 497-518.

83) See Nicole Gnesotto, 'What the European Union does', in *International Herald Tribune*, February 19, 2005.

84) A secure Europe in a better world, p. 18.

UN. While the EU-25 represents barely 13 percent of the UN membership, EU member states pay about 38 percent of the UN regular budget (in comparison: the US 22 percent and Japan 18 percent), and about half of all voluntary contributions to the UN Funds and Programs. In addition, they fund more than two fifths of UN peacekeeping operations.<sup>85</sup> The overall EU contribution does not limit itself to merely diplomatic and financial support. Although – as pointed out before – the Union is still predominantly a civilian power, by the end of the 1990s the EU’s heads of state and government covered new ground by concluding that the EU should have “the capacity for autonomous action, backed up by credible military forces”. This ambition was translated in the so-called Helsinki Headline Goal (December 1999), calling for the establishment of European military forces of up to 50,000 to 60,000 troops to perform various military tasks short of high-intensity warfare (humanitarian and rescue missions, peacekeeping and crisis management operations). Four years later, by adopting the so-called “battle-group” concept, European leaders added new impetus to the fledgling European Security and Defense Policy (ESDP). The concept allowed for the creation of a dozen of high readiness military units of 1,500 men to be deployed at short notice and on a short-term basis. Underscoring the EU’s commitment to strengthen the world organization, the battle-groups were expressly designed to respond to UN requests.<sup>86</sup>

However, the EU’s actual contribution to the UN peace support operations has to be put in perspective. Since the sobering experiences in the first half of the 1990s with UNPROFOR, the UN-led peacekeeping force in the former Yugoslavia (with its complex command and control arrangements), EU member states have been reluctant to deploy their forces under direct UN military leadership. As a result, participation of EU member states in UN peacekeeping has been relatively low in recent years. Thus, in April 2004, the contribution of EU members amounted to only 10.7 percent of the total military personnel engaged in UN operations. By contrast, these states contributed about 25,900 soldiers to the NATO-led forces in the Balkans (KFOR and SFOR), and 6,500 soldiers to the NATO-led force in Afghanistan (ISAF).<sup>87</sup> The EU followed the NATO model of subcontracting peace support operations that were authorized by the UN Security Council under the terms of Chapter VII of the UN Charter when for the first time it

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85) See Martin Ortega, ‘The EU and the UN: Strengthening Global Security’, in Espen Barth Eide (ed.), *Global Europe. Report 1. ‘Effective Multilateralism’: Europe, Regional Security and a Revitalised UN* (London: The Foreign Policy Centre, December 2004), p. 11.

86) See Burkard Schmitt, ‘European capabilities: how many divisions?’, in Nicole Gnesotto (ed.), *EU Security and Defence Policy. The first five years (1999-2004)* (Paris: EU Institute of Security Studies, 2004), pp. 98-99.

87) See Alexandra Novosseloff, *EU-UN Partnership in Crisis Management: Developments and Prospects* (New York: International Peace Academy, June 2004), p. 7.

assumed leadership over small-scale military operations. In 2003, after launching the EU Police Mission in Bosnia-Herzegovina (EUPM), the Union was put in charge of the military operation *Concordia* in Macedonia (with NATO assets) and operation *Artemis* in Bunia (without NATO assets). At the end of 2004, it took over NATO's operational responsibility over the military stabilization force in Bosnia-Herzegovina (since then codenamed operation *Althea*).

Underlining the growing ties between the Union and the world organization, the "Joint Declaration on EU-UN Cooperation in Crisis-Management" was signed in September 2003. By this (non-binding) declaration, both organizations agreed to establish a joint consultative mechanism to enhance mutual coordination and compatibility in planning, training, communication and best practices. The EU seeks to exploit the comparative advantage of the comprehensive nature of its toolbox for crisis management. By having at its disposal both civilian and military tools, it aspires not only to maintain and enforce peace but also to build peace, that is to say laying the foundations for lasting cooperation and harmony between formerly warring factions by sustaining reconstruction and development programs. In June 2004, the European Commission and one of the UN agencies, the UN Development Programme (UNDP), announced a strategic partnership focused on conflict prevention and post-conflict reconstruction. It remains to be seen, however, whether the EU's evolving military and civilian capacities would provide real added value for UN crisis management. One cannot fail to recognize that the sub-contracting model that the EU favors sets clear limits on the degree of cooperation between the UN and the EU in peace operations. In spite of the commitment to report to the Security Council, the EU does not allow the UN any control on the conduct of its operations.<sup>88</sup>

### **Balanced partnership with the US**

The transatlantic relationship is one of the centerpieces of the fabric of the world system. Together, the EU and the US command over one half of the world's economic and military resources,<sup>89</sup> making their combined political weight in world affairs potentially overwhelming. Consequently, attempts to create a more secure and just international order are very much affected by the state of transatlantic relations. Any deterioration of the transatlantic relationship is bound to have negative repercussions on the international system as a whole, diminishing the chances of finding solutions for the most pressing world problems. There is no denial that the relations between

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88) *Ibidem*, p. 8.

89) In fact, the US and Europe jointly account for 70 percent of world trade.

Europe and America became increasingly strained as NATO was losing its strategic purpose after the end of the Cold War. Europe was no longer at the heart of US security concerns, and divergences about the value of arms control treaties, the Kyoto Protocol and the International Criminal Court started to exacerbate after the election of President George W. Bush in November 2000. The war on Iraq, three years later, served as the crystallization point of profound European objections to some of the premises of US policies. Europeans especially took issue with especially the assumption of the Bush administration that tyrannical and autocratic regimes were the main source of instability, and that democracy and freedom could be forcefully imposed on the Middle East.

The transatlantic divide, in juxtaposition with the further development of the common foreign and security policy, have forced European governments to redefine Europe's relationship with the US, the single pole in the world of today. What is the most promising way to tame, harness and influence that single pole? How can the US best be persuaded of the advantages of multilateralism and the need to find international legitimacy for foreign interventions? The options for Europe seem to be clear: either to balance the US by creating a competing pole or to side with it and invest in a more balanced partnership in the Atlantic Alliance. The option of developing a European counter-weight to the US is both harmful and futile. It is harmful because attempts at balancing will only aggravate the transatlantic tensions and rekindle unilateralist tendencies in Washington. Balancing is a strategy that belongs to the foreign-policy arsenal of powers that look upon each other as adversaries rather than as partners. The option is also futile because the majority of EU member states are opposed to lending muscular power to the Union, nor are European taxpayers in the mood to drastically increase defense budgets for the sole purpose of catching up with America's military might. As Timothy Garton Ash eloquently remarked regarding the French and German position towards the US over the Iraq war: "The neo-Gaullist vision of a unipolar Europe in a multipolar world ended with a multipolar Europe in a still unipolar world".<sup>90</sup> Moreover, a European defense union or a European army, which seems to be an unalienable attribute of full power status, would require the establishment of a full-fledged political union or European government. This is simply not an attainable goal for the foreseeable future.

The case for the second option, siding with the US and seeking for a more balanced partnership, can be made in reference to the common interests Europe and America continue to share, notwithstanding disagreements about the sources of international insecurity and the appropriate methods to deal with them. Europe still needs the US because the military capabilities the EU

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90) Timothy Garton Ash, *Free World. Why a crisis of the West reveals the opportunity of our time* (London: Allen Lane, 2004), p. 94.

is developing are too weak to defend European interests along the entire political spectrum. American military power serves as Europe's "lender of last resort", as was clearly demonstrated in the final stage of the Balkan wars. It is one thing to assist countries along the road towards democracy and economic prosperity, while luring obstinate regimes, like that in Libya, with the carrots of trade preferences and economic aid into acceptance of nuclear anti-proliferation norms. It is quite another to correct tyrannical regimes (e.g., North Korea), which repeatedly show contempt for international agreements, without the stick of physical coercion. When soft power becomes the only option in foreign affairs, a policy of appeasement towards potential proliferators is not far away. This observation seems to be relevant to judging European efforts to curb the Iranian nuclear program.

Conversely, the Iraq experience after the fall of Saddam Hussein has taught Americans that military superiority is relatively meaningless when it comes to supporting programs for nation-building and democratic transformation. Soft-power instruments are required to make these programs successful. Indeed, non-military tools of statecraft – such as preventive diplomacy, international monitoring, economic assistance, trade preferences, and educational campaigns – are more effective levers to achieve long-term stability in turbulent countries than strategic weaponry. In several domains of soft power the US is weaker than the countries of the EU. Thus, for example, European funds on international development are at least three times as large as those of the US, and the European contribution to peacekeeping operations is about ten times greater. Furthermore, American economic power is declining because of the dual deficit of the federal budget and the foreign trade balance. Likewise, heavy-handed US diplomacy has undermined another important dimension of soft power: the attraction of American ideas and values, as reflected in US defiance of the majority opinion in the UN Security Council and adherence to international treaties.

American hard power and European soft power are not antithetical but complementary.<sup>91</sup> It may be a truism but not less true: Europe and the US are stronger when they cooperate than when they march alone. While it might not be possible for the EU and the US to take on everything together, it is essential to make sure that taken together they do everything. What is needed is not the popular good cop-bad cop role differentiation but a common transatlantic strategy, setting out general principles and guidelines to ensure better coordination of the employment of civilian, peacekeeping, and military instruments. American dependence on European soft power gives European governments potential leverage over the US administration, provided these governments are prepared to work with the US. As Andrew Moravcsik has put it: "In the end, the best way for Europe to play a world role is to play

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91) For a similar view Andrew Moravcsik, 'Striking a New Transatlantic Bargain', in *Foreign Affairs* July/August 2003, pp. 74-89.

with, not against, the United States".<sup>92</sup> It is further this study's contention that the only opportunity for European countries to qualify American power, that is to say to moderate and constrain it, lies in complementing American military power with indispensable non-military tools. The late recognition by president Bush of the centrality of peace between Israel and the Palestinians to his broader ambition to spread democracy in the Middle East may be partly attributed to European advocacy. The reality of overall symmetry of military and civilian asymmetries between the US and Europe may justify and stimulate the development of a more balanced relationship in the NATO Alliance, giving European allies a greater say in joint security policies.

In view of the diminished role of the Western Alliance as a forum for political consultations and the enhanced foreign-policy profile of the EU the most pressing problem in transatlantic relations<sup>93</sup> is how to organize the political dialogue between the two sides of the Atlantic. Reasons why this problem seems rather intractable are the reluctance of the US to accept a European caucus in NATO, French insistence on giving priority to dialogue between the EU and the US rather than consultations in NATO, as well as the complexities arising from the fact that not all EU-members are members of NATO and not all European NATO allies are members of the EU (with Canada in an outsider position). Obviously, the stakes are very high: the risk of American disengagement with Europe and regression into global unilateralism. Given the circumstances, a dual-track approach is needed. In order to regain their former relevance NATO consultations must be refocused from narrow *military*-strategic concerns (particularly shortcomings in military capabilities) to wider *political*-strategic issues (particularly the linkage between the security of the euro-Atlantic area and threats outside this area). But, at the same, the periodic encounters between the EU and the US have to be politically upgraded and receive new impetus since they tend to be rather bureaucratic in form and predictable in substance. The proposal for an informal, twice-yearly strategic dialogue (in the mold of the EC/EU Gymnich formula) with the US administration engaging the foreign ministers of the EU member states deserves serious consideration. Finally, by strengthening the ties between NATO's North Atlantic Council and the EU's Political and Security Committee, strategic planning in the two organizations may be better coordinated.

The successful restructuring of the transatlantic dialogue is likely to have a positive impact on the prospects of effective multilateralism as a whole.

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92) *Ibidem*, p. 83.

93) As raised in Chancellor's Schröder's speech for the annual *Wehrkunde* Conference in Munich, 12 February 2005. The controversial observation was made that NATO "is no longer the primary venue where transatlantic partners discuss and coordinate strategies".



## Conclusion

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Any serious attempt to transform the present international system towards effective multilateralism – the most realistic model of political order in the world today – must recognize the reality of American preeminence in global affairs. The same sense of realism makes one understand that the US, as a power with unsurpassed military and economic weight, might claim to have a certain leeway in how it operates internationally. The historical record would suggest that stronger powers have a natural aversion to being restrained by lesser breeds, especially if these weaker states take the moral high ground with the knowledge that they are not being called upon to bear the brunt. It remains an interesting point of debate whether a unipolar power structure, which largely characterizes the current distribution of political resources in the world, is conducive to the pursuit of international order. The nature of the political regime of the strongest power in place should be taken as an important variable in the political equation. Whatever justified criticism of American policies and whatever the shortcomings of America's polity, it is a cause for comfort that today's preeminent power is a democracy. History has shown the ugly face of the alternatives.

As for the UN, it is hard to imagine circumstances where the world organization would be capable to preserve international peace and security in opposition to the US. Like it or not, the UN cannot stand above the most powerful member states. This holds true not just for the US but also for countries like China. It is the member states that determine the margins of political relevance of the world organization, not supranational bureaucrats, non-governmental organizations or eminent personalities. This explains why

proposals for reforming the UN are either radical but futile or attainable but not earth shattering and imaginative. The report of the UN High-level Panel, which has been referred to in this study several times, clearly belongs more to the second category.

If the problem of world order today is basically the problem of managing American power, what road should be taken? It is not this study's conclusion that because the UN cannot work without America fully behind it, the world organization can only be relevant if it is America's tool. Obviously, the US cannot be allowed to take the law into its own hands. The view that American leaders can be trusted to use a monopoly of power has never been shared outside the US. Sensible Americans have been mindful of this sobering fact. Thus, Kenneth Waltz, the leading representative of the neo-realist school of international relations, thoughtfully observed: "I believe that America is better than most nations but fear that it is not as much better as many Americans believe. In international politics, unbalanced power constitutes a danger even when it is American power that is out of balance".<sup>94</sup> To the extent that the US is still ill at ease with the entanglements and complexities of multilateral institutions, it is essential that the American administration rediscovers the potential value of these institutions as a source of international legitimacy as well as the opportunities they may offer to share burdens with friendly states that believe in the virtues of multilateral cooperation. A new commitment by the US to multilateralism looks less like a chimera than is often suggested. The combined weight of persuasion by others who share America's security concerns and the force of circumstances pointing to the limits of American power may be stronger than the impact of anti-internationalist belief systems. As was underlined in this study, the exercise of power that is not rooted in legitimacy involves political cost that is likely to rise prohibitively high as campaigns to enforce democracy and modernization meet firm local resistance. The Iraqi imbroglio would be a clear case in point. In exchange for international support (diplomatic and material) the US must accept the obligation to respect some basic rules concerning the rule of military force, such as circumscribing the right of self-defense and adhering to the principles of humanitarian law and proportionality. Otherwise the second Bush administration would fail to show that, to borrow the words of the American historian John Lewis Gaddis, the world is better off with America as the dominant power than with any other power.<sup>95</sup>

Although in the more distant future China and perhaps India may pose the most serious challenge to American power, in the short term Europe is in the best position to moderate the worst impulses of the US. While the EU is

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94) Kenneth N. Waltz, 'America as a Model for the World? A Foreign Policy Perspective', in *Political Science and Politics*, XXIV (4), 1991, p. 670.

95) John Lewis Gaddis, 'Grand Strategy in the Second Term', in *Foreign Affairs*, January/February 2005, p. 15.

no match to the US in terms of military capabilities, the experience with supporting nascent democracies demonstrates the Union has something to offer America which is clearly needed: an extensive arsenal of civilian foreign-policy tools. Since the Atlantic Alliance is one of the indispensable pillars of the international order, the survival of NATO should be of immediate concern to all those who care about a more peaceful world. The Alliance must be based on the principle of the complementarity of American hard power and European soft power, thereby also giving due weight to the increased foreign-policy role of the EU. Existing mechanisms for consultations and dialogue need review. The idea of organizing regular open-ended dialogue meetings between European and North American foreign ministers is a step in the right direction. The magnitude of the task ahead, however, can hardly be exaggerated: restoring American interest in achieving a transatlantic consensus on the appropriate response to major security threats while at the same time granting Europeans an equal voice in the Alliance by making them “partners in leadership” with the US. European governments can only substantiate their claim to equality vis-à-vis the US if they are prepared to take their full share in the common burdens. That is to say the burdens of containing, stabilizing and transforming countries that are not in their direct neighborhood but nevertheless may pose a danger to the security of the euro-Atlantic area (e.g., by providing a safe haven for terrorist organizations). The example of Afghanistan springs to mind.

The effectiveness of the UN system very much depends on marrying American power with international legitimacy. A crucial test will be the capacity of the world organization to deal with the new global threats of international terrorism and weapons of mass destruction. If the UN fails this test, then there would be hardly any future for the world organization as a *security* organization. It would indeed be in danger of “fading into history as an ineffective, irrelevant debating society”, to recall the words of President Bush. A large number of proposals and suggestions are circulating to avert such an ill-fated development. Priority should be given to strengthening the legal regimes that have been established to combat international terrorism and to counter WMD proliferation. Thus, countries that have chosen to remain outside the anti-terrorist conventions must be pressured, if necessary by economic sanctions, to assume their international responsibilities. The same goes for those countries that are not in full compliance with the directives of the Counter-Terrorism Committee, established by the Security Council.

Attempts to strengthen the non-proliferation regime should focus on rapidly concluding a fissile material cut-off treaty and converting nuclear reactors to low-enriched uranium use, thereby reducing the risk of the development of all necessary components for nuclear weapons under the guise of peaceful application. The option of the breakout capacity must be made unattractive to would-be nuclear states by confronting them with the prospect of becoming subject to prompt verification, if necessary mandated by the Security Council, in response to these states’ notification of withdrawal from

the NPT. Moreover, the Additional Protocol ought to be established as the general norm for verifying compliance with the Treaty. Any illicit trading in nuclear material and technology should be prosecuted and punished. Last but not least, the Security Council must be prepared to act in cases of serious concern over non-compliance, regardless of whether or not these cases have been referred to it by the board of the IAEA.

Additionally, the ground rules concerning the use of military force have to be adapted to radically changed circumstances. In a world where terrorist attacks cannot be forestalled by classic methods (*i.e.* containment and deterrence), and annihilation could come without warning at a press of a nuclear button, the right of carrying out preemptive strikes in self-defense cannot be in dispute. It is unreasonable and unrealistic to expect a state being faced with such a threat to wait until the threat materializes. But for any appeal to the right of self-defense to be legal and legitimate, the threat in question has to be *imminent*, in other words there has to be a clear and present danger. It is up to the state that justifies unilateral military action by referring to the right of anticipatory self-defense to convince the Security Council of the high-level of urgency of the threat. It should also be understood that *preventive* strikes, in contradistinction to *preemptive* strikes, would require the prior authorization by the Security Council. Those strikes are in response to threats that could materialize in the future, lacking the urgency to act unilaterally.

Furthermore, the organizational effectiveness of the UN could be strengthened if one succeeds in redressing the fragmentation in the entire family of its institutions. A wide gulf exists between decision-making on traditional peace and security concerns in the Security Council and on financial and economic affairs in the boards of the World Bank and IMF. This fragmentation ignores the interrelationship of the problems involved, as is recognized by the notion of comprehensive security. Any solution short of extending the mandate of the Security Council beyond its traditional domain is likely to fail. Priority should also be given to fostering a culture of *anticipation* to crises rather than that of *reaction*. Members of the Security Council must feel a sense of urgency to take action before conflicts escalate and get out of control. Periodic reporting to the Council by the Secretary-General about potential hostilities in the world, to be followed by high-level debates on the practical implications of threat assessments, may be instrumental in raising the general awareness of the necessity of conflict prevention.

Finally, in view of the weak UN capabilities for planning and commanding large-scale peace operations, the world organization would be well advised to concentrate on the empowerment of regional organizations, especially in Africa (such as the African Union and ECOWAS) and if possible with EU assistance. To be sure, regionalization might undermine the moral authority of the UN since this authority is based on the ethics of universalism and the principle of the indivisibility of peace. However, the public standing

of the world organization will certainly be damaged if, because of lack of effectiveness, the UN cannot deliver on its promises.