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TWENTIETH REPORT OF THE COMMISSION TO STUDY THE ORGANIZATION OF PEACE

Louis B. Sohn

CHAIRMAN

# THE UNITED NATIONS: THE NEXT TWENTY-FIVE YEARS

Twentieth Report of the

COMMISSION TO STUDY THE ORGANIZATION OF PEACE

Louis B. Sohn, Chairman

Commission to Study the Organization of Peace 866 United Nations Plaza, New York, N. Y. 10017 November 1969

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During the first seven decades of the Twentieth Century mankind has passed from the automobile age through the air age to the space age. Fifty years ago the League of Nations was established, and the United Nations is approaching its twenty-fifth anniversary. This Commission is thirty years old, and this is its twentieth report.

This seems to be an appropriate time for stocktaking and for braving the future. Most persons born today will spend the larger part of their life in the Twenty-First Century. Those who are in college today will be at the peak of their influence when the new century arrives.

What role can the United Nations play in the coming century? What can be accomplished in the next twenty-five years to bring peace and justice and freedom to all mankind? It is the purpose of this report to provide some guidance for those in search of a better world, for the decision-makers during the next twenty-five years and for those who will conduct the affairs of mankind in the next century. This is an ambitious goal, but not an impossible dream. Progressive steps can be taken in the next twenty-five years which can bring us close to that goal. This report discusses more than a hundred such steps. During the next five years some twenty steps may easily be taken in various areas. The next twenty will require more time, but if they are also taken, a momentum may be gathered which will enable us to face the most difficult final steps. The first astronauts reached the moon as a result of many small steps taken by many people; millions of bits of machinery had to be invented and manufactured in order to provide them with the smoothly operating vehicles which got them there. World peace can be achieved by a similar cumulative effort. This report, drawing on the work of many people in many countries, hopes to provide a beginning for such an effort, the

first blueprint which may stimulate others to come with an even better one. In the life of mankind twenty-five years is less than a second is in the life of an individual, but the next twenty-five years may be crucial to the future of humanity and of the small world it inhabits. The problems to be tackled are hard but they can be solved.

LOUIS B. SOHN

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The Drafting Committee consisted of the members of the Executive Committee and the authors of the following background papers which will be annexed to the final print of this report:

John Carey, "U.N. Protection of Human Rights After Twenty-Five Years";

Carl Q. Christol, "World Order and Law";

Roger Fisher, "Making the United Nations Work Better: Organizational and Procedural Reform";

Ernst B. Haas, "Trade, Aid, and Money: Guidelines for American Policy in the United Nations";

Marion H. McVitty, "Disarmament";

William R. Roalfe, "Steps to Advance the Legislative Capacity of the General Assembly";

Louis B. Sohn, "Peaceful Settlement of Disputes";

Richard N. Swift, "Peacekeeping and Peacemaking";

Howard Taubenfeld, "Financing the United Nations"; and

Quincy Wright, "Development of International Institutions Under the United Nations System". In addition, a separately published paper by the late James P. Warburg, entitled "Wanted: A New American Approach to Peace", provided important ideas for several sections of the Commission's report. His passing was a grievous loss to the Commission.

The Chairman of the Commission is especially grateful to the Center for International Studies of New York University which made it possible for him to spend a year in New York and to devote a considerable amount of time to the preparation of this report.

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## THE UNITED NATIONS: THE NEXT TWENTY-FIVE YEARS

#### I. INTRODUCTION

#### 1. The First Twenty-Five Years of the United Nations

The last fifty years have seen basic changes in the legal and constitutional framework of the world community and in the structure of international relations. Before World War I the system for limiting international conflict and avoiding war consisted mainly of certain generally accepted principles of international law, supported by certain understandings as to spheres of influence and by alliances to maintain balances of power, as a means for discouraging any nation from dominating the world. A complex network of diplomatic missions served as a means for settling disputes by negotiation and mediation. A few international unions were established, codification conferences were held at The Hague, and arbitration procedure and machinery were developed.

World War I made it clear to many thinkers and statesmen that the system had glaring deficiencies, that it was based on certain wrong premises, and that an effort should be made to improve the system. What resulted at the end of the war was the League of Nations. The basic concept of the League was that its members should be protected by collective action from aggression. A court was provided to settle certain kinds of disputes and an effort made to limit armaments. The peace treaties adopted at the same time, though widely criticized, recognized certain demands of justice based on principles of self-determination of peoples and the protection of the right of minorities within States.

In the twenty years of the League's activity, 1920 to 1939, events did not fulfill expectations. The United States did not join the League, other big powers did not participate on a continuing basis, the support its members gave to the League was halting and reluctant, and certain States dissatisfied with the post-war arrangements were determined to destroy it. It was clear by the outbreak of World War II that a new beginning was called for, and before war's end the purpose of making a new beginning was actually realized in the Charter of the United Nations.

The Charter stands in time half-way between the creation of the League and today. The Charter and the United Nations will be twenty-five years old in 1970. As we enter the second quarter century of the United Nations, it seems appropriate to consider what our goals in relation to its improvement should be and how we may reasonably proceed with the task.

We cannot do this by imagining the world as it was in 1945. We must take into account the many ways in which the world and man have changed. The Second World War was truly worldwide; the desire for peace became thus also universal. The war also brought many peoples for the first time into contact with modern civilization, and the balance of power between Europe and the rest of the world was considerably changed. The war was followed by the most profound scientific and human revolutions of a global nature in man's history.

As President Nixon pointed out in his speech to the General Assembly on 18 September 1969:

"We have entered a new age, different not only in degree but in kind from any that has ever gone before.

"For the first time ever, we have truly become a single world community.

"For the first time ever, we have seen the staggering fury of the power of the universe unleashed, and we know that we hold that power in a very precarious balance.

"For the first time ever, technological advance has brought within reach what once was only a poignant dream for hundreds of millions: freedom from hunger and freedom from want . . .

"For the first time ever, we have seen changes in a single lifetime—in our lifetime—that dwarf the achievements of centuries before; and those changes continue to accelerate . . . "In this new age of 'firsts', even the goal of a just and lasting peace is a 'first' we can dare to strive for. We must achieve it. And I believe we can achieve it."

Some of the scientific changes of the last twenty-five years were accelerated by the war; others would have occurred anyway, for it is estimated that of all the scientists the world has ever known, ninety per cent are alive today. The forces of science and technology were unleashed in both negative and positive directions, creating in man both a new sense of insecurity and terror and a renewed hope that a better life is within his reach.

First of all, atomic energy has been brought to mankind, with all of its potential for good and evil. Though a nuclear war between the two superpowers could destroy mankind, other nations have had too small a share in the decisions of the nuclear giants which could release these forces of destruction. The survival of mankind has depended during the past two decades on an unstable system of mutual deterrence and a precarious balance of terror.

Secondly, there have been other advances in science, technology and medicine which have changed the relations of nations. Some of these relate to communications, including transportation, others to the creation of new materials which change the economic relations between advanced and less developed countries, others to the modification and pollution of the human environment, and still others to the rate of population growth and its attendant dangers. The astronauts of the Soviet Union and the United States have invaded the frontiers of outer space and have begun to explore the celestial bodies. Another frontier beckons as technology has finally made accessible the riches on the ocean floor. Travellers will soon circle the globe at speeds faster than sound. National frontiers stop neither people nor problems.

Thirdly, men's attitudes have changed in a number of ways: (1) there is greater demand for self-determination, both political and economic; (2) the demands for more equality and wealth, and for an opportunity to improve the economic,

educational and social status of various groups are insistent over most parts of the globe, including both developed and developing nations, no matter what has to give way to satisfy them; (3) science and education are seen by the disadvantaged nations as important avenues to such an objective, as are the easy and plentiful transfer of capital, the improvement of the terms of trade, and the acceptance of less strict rules with respect to the payment of compensation for nationalized assets.

One may truly say that much of the world has been aroused from the lethargy of ages. Of the forty-five per cent of mankind which was in colonial status in 1945, all but three per cent of mankind achieved independence by 1970. The colonial powers no longer had either the strength or the will to maintain their empires. The Charter of the United Nations held out hope of self-government for the colonial areas and the United Nations helped most of them achieve independence. It is to be noted that a few colonial problems remain, particularly in southern Africa; one of them, the former mandated territory of South West Africa (Namibia), is of special interest to the UN. That the end of colonialism was not foreseen in the United Nations in the late 1940s and early 1950s is shown by the fact that the headquarters buildings were planned and built in anticipation of a membership of 70 States; that number had almost doubled, however, by 1970, as more than fifty new States had been established in the former colonial areas. They found in the United Nations a forum in which they could assert their independent points of view and ventilate their grievances. For some of them the United Nations provides the main means of diplomatic contact with the rest of the world.

It seems clear that the emergence from technological and political backwardness of much of the world has stimulated efforts by certain ideological groupings of States to bring the new States to their respective sides, with resulting exacerbation in the relations of these groupings. The United Nations has been buffeted about and sometimes ignored in this competition, and has fallen short from the ambitious goals of the Charter. Nevertheless, the existence of the United Nations has

contributed significantly to the maintenance of the peace, however uneasy and precarious it may have been and still is. In many cases small conflicts have been kept from growing into larger ones, and the pressures exerted by the majority of small powers in the United Nations have blunted the attempts of several larger powers to have their way. The United Nations made available meeting places in the Security Council, the General Assembly and other bodies, where "parliamentary diplomacy" could be practiced. Time and time again statesmen have met at the United Nations to deal with what seemed an almost hopeless problem, and frequently worked out tentative or even long-lasting adjustments of conflicting claims. Whether a third world war would have come without the United Nations we cannot know for certain, but we believe that it would have been more likely.

But "peace and security" involve more than an absence of armed conflict. They require a general sense of contentment that can be realized only by satisfying many of the aspirations of men in all countries. Thus the work of the United Nations and its family of agencies to eliminate poverty, ignorance, intolerance, violations of human rights, etc., is of enormous importance. While peace is uneasy, much is being done to firm up the foundations of a more stable peace.

Even in the field of world law there have been important developments. The General Assembly adopted in 1948 the Universal Declaration of Human Rights which has become widely accepted as having more binding effect than a mere statement of aspiration. It was followed by the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Declaration on the Elimination of Racial Discrimination, which have more influence than the absence of enforcement provisions might imply. The International Atomic Energy Agency is developing standards to safeguard the peaceful uses of atomic energy. Several specialized agencies are developing regulations relating to health, aviation, communications, trade, and other fields of common interest to all.

Possibly the most dramatic extension of world law has been in the frontier of outer space. In 1961 the United Nations General Assembly proclaimed that the law of the Charter and international law would apply to outer space and that the celestial bodies were not subject to appropriation by any State. A later resolution banned the installing or stationing of nuclear weapons or other weapons of mass destruction on the celestial bodies or placing them in orbit around the earth. These principles have been incorporated in a treaty, which has been ratified by 47 nations, including the Soviet Union, the United Kingdom and the United States.

A Committee of the General Assembly is attempting to apply similar principles to the deep seabed to ensure that no part of it will be annexed by any State; that weapons of mass destruction will not be implanted in it; and that it will be developed for the common good of mankind.

What of the future? The many accomplishments of the United Nations in the past twenty-five years cannot obscure the fact that there is a widespread consensus that it has not fulfilled all of the legitimate expectations of 1945. It has not been able to check the race in armaments, especially in nuclear weapons and the means to deliver them rapidly over vast distances. It has not settled major international disputes in the Middle East, Kashmir, Berlin, Korea, Vietnam and other areas. There is also deep disquiet as to its capacity to guide the advanced nations toward the necessary adjustments in the international system which they built for themselves in the last three hundred years to the needs of international peace and security and the revolutionary demands of the developing countries and of the younger generation. There are strong forces ready to defend the status quo and vested interests, including unfair economic advantages. While there is danger, and even much evidence that various contestants will try to settle problems by brute force, by revolution and counter-revolution, and by civil and international wars, it is to be hoped that better methods will prevail and catastrophe be avoided. It seems clear that the price of peace will be the acceptance of dynamic change on all levels of society, domestic and international. By the end of the next twenty-five years, if the world survives the many crises it now experiences and the new ones likely to arise, the international system will probably have to change considerably from the present system. It may have to change in directions which we can only dimly imagine at present. But mankind should be deeply concerned with the task of trying to create a more effective system. The Commission to Study the Organization of Peace intends to help in making mankind aware of this task and of ways for coping with it.

Secretary-General U Thant said on 9 May 1969 "... I can only conclude from the information that is available to me as Secretary-General that the Members of the United Nations have perhaps ten years left in which to subordinate their ancient quarrels and launch a global partnership to curb the arms race, to improve the human environment, to defuse the population explosion, and to supply the required momentum to world development efforts.

"If such a global partnership is not forged within the next decade, then I very much fear that the problems I have mentioned will have reached such staggering proportions that they will be beyond our capacity to control."

The challenge is political, economic and moral. War threatens in various areas of the world where armistice agreements have worn thin. Despite the more than twenty years of disarmament negotiations, the conclusion of a few arms control agreements such as the limited test ban treaty, and the persistent efforts of the Twenty-Six-Nation Conference of the Committee on Disarmament at Geneva, and of its predecessors, the race in both nuclear and conventional armaments continues and the arms budgets of the world are at their highest point-approximately one hundred and eighty billion dollars a year. Many small nations spend a large portion of their budgets on armaments, diverting crucial sums from economic development and other important objectives. Notwithstanding the work of the United Nations, its specialized agencies and other international and regional organizations, the income gap between the rich and the poor nations continues to widen.

The fundamental obstacle to success of the United Nations from the beginning has been the fact that the governments of the world have not developed a strong enough allegiance to the Charter of the United Nations. Too few countries, and none of the great powers, have taken the United Nations sufficiently into account in formulating and executing their foreign policies. Five powers were given permanent seats on the Security Council and a veto on certain kinds of action, because it was felt that the peace of the world would depend upon their unity. This unity has not been maintained by them. Without pretending to apportion all the blame for this, we dare say that all of them share in it. Frequently one or more of them have substituted unilateral action and alliances for collective action under the Charter, or for determination by the Court. They have also sometimes brought issues to the United Nations when it was too late for it to solve them successfully. They have often supplied arms to small States and sometimes have encouraged them in making unreasonable or even belligerent demands. Their aspiration in some cases seems to be to achieve short-run national objectives rather than permanent peace on just principles. And many of the new States that entered the United Nations with such high idealistic purposes have frequently concentrated their attention on a few political objectives, trying to get the most for their countries. They have sometimes refused to see the larger moral obligations of the Charter or to realize that the obligations of the Charter, especially with respect to human rights, apply to them as well as to others.

Nations sometimes justify their unilateral action by alleging that the United Nations is not strong enough to assure their security or to solve their problems. Since such unilateral action seldom has proved successful, the only other viable alternative seems to the Commission to be the improvement of the capacity of the United Nations to realize the goals set forth in the Charter.

It will not come as a surprise to those who have followed the previous work of the Commission to Study the Organization of Peace that it believes that the international community in the not too distant future will develop to the point that the United Nations will actually be able to maintain "international peace and security, and justice" and to ensure to all "better standards of life in larger freedom," as was promised in the United Nations Charter.

The Commission presented this point of view as early as its First Report in 1940 when it stated:

Peace under modern conditions cannot be a static condition of life achieved by the renunciation of war, nor a mere pious desire to live at peace. Peace must be a dynamic and continuous process for the achievement of freedom, justice, progress and security on a world-wide scale. Many problems can never be finally solved. They recur in different forms as eternally as life itself. The processes of peace, however, should make possible ways of meeting these emerging problems on a plane higher than mass physical combat.

Peace requires the substitution for war, which becomes ever more destructive, of international processes which while protecting national ways of life against external violence will facilitate adaptation to new conditions and will promote creative changes in the general interest. Peace involves whatever international organization is necessary under conditions of the times to protect the interests and promote the progress of mankind. The world has so shrunk that the loose political organization of the past which rested on balance of power, on neutrality and isolation, is no longer adequate.

The Commission listed at that time the following five goals:

- (a) Nations must renounce the claim to be the final judge in their controversies with other nations and must submit to the jurisdiction of international tribunals. The basis of peace is justice; and justice is not the asserted claim of any one party, but must be determined by the judgment of the community.
- (b) Nations must renounce the use of force for their own purposes in relations with other nations, except in self-defense. The justification for self-defense must always be subject to review by an international court or other competent body.

- (c) The right of nations to maintain aggressive armaments must be sacrificed in consideration for an assurance of the security of all, through regional and worldwide forces subject to international law and adequate to prevent illegal resorts to international violence.
- (d) Nations must accept certain human and cultural rights in their constitutions and in international covenants. The destruction of civil liberties anywhere creates danger of war. The peace is not secure if any large and efficient population is permanently subject to a control which can create a fanatical national sentiment impervious to external opinion.
- (e) Nations must recognize that their right to regulate economic activities is not unlimited. The world has become an economic unit; all nations must have access to its raw materials and its manufactured articles. The effort to divide the resources of the world into sixty economic compartments is one of the causes of war. The economic problem arising from this effort has increased in gravity with the scientific and industrial progress of the modern world.

These principles were incorporated in the Charter of the United Nations, but they have not been fully implemented. The United Nations still lacks sufficient powers: (1) to develop and enforce world law; (2) to ensure that all disputes are settled peacefully; (3) to solve interconnected problems of disarmament and international security; (4) to promote a more effective economic growth in the developing areas of the world and a more rational international economic system; (5) to protect human rights; (6) to promote the right of peoples to self-determination; and (7) to establish new international regimes in areas requiring adequate international control. Proper exercise of these substantive powers requires: (8) further broadening of the United Nations membership toward universality; (9) the strengthening of the United Nations decision-making capacity; (10) the assurance of more adequate financing; and (11) the mobilization of popular support for the United Nations through a world communication system and better education toward world understanding. The powers to be given to the United Nations would thus be exercised on a universal basis and in a manner quite different from the present practice.

Should anyone contend that new limitations on national sovereignty might result from the strengthening of the United Nations and its peacekeeping and peacemaking machinery, one could point out that these limitations would be clearly less dangerous than the attempts to adhere to old, outworn paths of power politics and unlimited sovereignty which lead directly to a nuclear holocaust. The United Nations Charter already contains a proper beginning, and over the last twenty-five years the United Nations has taken many steps in the right direction. But all these processes need to be greatly speeded up, and to do that will require a renewal of the faith which accompanied the birth of the United Nations, and a real dedication of both the peoples and governments of all Members to a new spirit of effective cooperation.

#### 2. Proposal for a Draft Declaration

As a first step in that direction, all the Members of the United Nations might wish to make, through the General Assembly, a declaration stating their determination to achieve certain specific goals with respect to the strengthening of the United Nations through various progressive steps. Such a declaration, which the Commission suggests be adopted on 24 October 1970, the twenty-fifth anniversary of the coming into force of the Charter of the United Nations, might, for instance, be worded as follows:

#### "DRAFT DECLARATION

"The peoples of the United Nations, through the representatives of their Governments assembled in the City of New York on 24 October 1970, the twenty-fifth anniversary of the coming into force of the Charter of the United Nations,

"Having resolved to rededicate themselves to the great goals stated in the preamble and Article 1 of the Charter, and to give higher priority than in the past to using the United Nations machinery for maintaining peace, "Solemnly declare that, in order to achieve these goals over the next twenty-five years, they will take the necessary steps:

"1. To accelerate the development of a body of world law, applicable not only to all States but also to individuals, and to develop new methods of international legislation to ensure that international law can cope with the rapid growth in the number of States and the increasing complexity of relations among them;

"2. To strengthen various methods for the just and peaceful settlement of all international disputes in order to provide an effective substitute for the use or threat of force;

"3. To make the United Nations strong enough so that all States will feel secure, and the States of the world disarmed enough so that no State would be able to challenge the authority of the United Nations to maintain international peace and security;

"4. To assist individuals everywhere in achieving higher standards of living, to increase world economic cooperation and social and cultural progress, and to make the terms of international trade more equitable and thus advance worldwide economic development;

"5. To ensure universal respect for, and observance of, human rights and fundamental freedoms throughout the world;

"6. To remove the remaining vestiges of colonialism and to assure the right of political and economic self-determination to all non-self-governing peoples;

"7. To establish under the auspices of the United Nations new procedures, regimes or institutions whenever new circumstances or new developments in science and technology indicate the need for international regulation of new areas in the interest of all mankind, thus avoiding potential conflicts and undue domination by the technologically more powerful or geographically more fortunate States;

"8. To increase the effectiveness of the United Nations by making its membership more nearly universal;

"9. To ensure that the decisions of the United Nations are made expeditiously and authoritatively;

"10. To provide the United Nations with financial re-

sources adequate for the many tasks which the increasing interdependence of nations continuously imposes upon it; and

"11. To assist the United Nations in developing a world point of view among all peoples through independent worldwide communications facilities and other educational and informational means."

The subsequent sections of this report are built around this statement of goals. Each section contains a general background comment, and also lists various concrete steps by which a particular goal might be reached. These steps are merely illustrations and are not always listed in an order of priority or of feasibility. While the steps to be taken in various areas are not necessarily parallel, progress in one area would in many cases make it easier to take steps in other areas. In particular, the sooner structural changes (Section 9, below) are made, the more practicable it would be to endow the United Nations with new powers. The suggestions embodied in the report are by necessity general in character. A number of more detailed proposals may be found in the papers which will accompany this report in a later edition. It may be noted that the report is mainly concerned with the United Nations itself; many of the proposed steps would, however, require implementation through, or with the cooperation of, various agencies in the United Nations family and other international organizations, both universal and regional.

#### II. THE GOALS AND THE STEPS

### 1. Development of World Law and International Law

The Goal: To accelerate the development of a body of world law, applicable not only to all States but also to individuals, and to develop new methods of international legislation to ensure that international law can cope with the rapid growth in the number of States and the increasing complexity

of relations among them.

Comment: The Charter of the United Nations is the first instrument of world law. Even the Covenant of the League of Nations was considered by many as merely another treaty, applicable to a small group of countries and leaving other international agreements intact. But the Charter prevails over any inconsistent international agreement (Article 103), and in matters relating to the maintenance of international peace and security applies not only to Member States but even in some cases to non-members (Article 2, paragraph 6). Similarly, the Charter protects all States, whether Members or not, against attack and against interference in their domestic affairs (Article 2, paragraphs 4 and 7). The Charter is truly universal in its scope and application and is thus the cornerstone of world law.

Additional principles of world law are contained in various resolutions and declarations adopted on behalf of the world community by the General Assembly either unanimously or with a few minor dissents. (See also Section 5 below, relating to human rights.) More principles are in preparation, though the Special Committee on Principles of International Law Concerning Friendly Relations and Cooperation Among States has encountered some difficulties in its work. Little progress has been made also with respect to defining aggression and various crimes against mankind. New ways must be found to achieve better results.

While international law is primarily a law among States, world law applies also to individuals. Individuals should be able to invoke it in domestic and international courts for their protection, and they should be punished in appropriate cases for its violations.

World law has now become in a sense the constitutional law of the world community, but other areas of law similar to those developed in domestic law are covered by various branches of international law. Domestic administrative law finds its counterpart in the law of international organizations, many of which have administrative functions. There are more than two hundred international organizations, both global and regional, and international administrative law has been developing at a rapid pace. Other areas of international law are not far behind. Both treaty and customary law have been growing in an accelerating fashion. Dynamic changes have appeared in many fields, and new methods are needed to prevent conflict and confusion and to direct future developments into more regular channels.

One useful device might be to empower the United Nations and other international organizations, within their respective spheres of activity, to dispense with the need to have new international rules ratified before they bind a particular State. States have already agreed that the regulations on international air navigation adopted by the International Civil Aviation Organization and the sanitary regulations adopted by the World Health Organization should come into effect on a specified date when approved by an appropriate majority. States which do not want to apply them, in whole or in part, must notify the Organization concerned of that fact before the date of their entry into force. If they remain silent, and most of them do, the regulations become binding upon them without any further action by them. The cumbersome procedure of ratification and the accompanying delays can thus be avoided.

Once a treaty is ratified or a regulation becomes binding, States should be obliged to report to an international organization on the steps taken to incorporate the rules into their domestic law and on the problems which may have arisen with respect to their interpretation or enforcement. The International Labor Organization has developed effective procedures in this area, and they exist also in a few other international

#### b. With respect to international law:

Step 9: The International Law Commission of the United Nations should be sufficiently strengthened to enable it to speed up the process of codifying and developing general international law.

Step 10: The United Nations, and all specialized agencies which do not at present possess such powers, should be authorized to adopt, in a manner similar to that already granted to the International Civil Aviation Organization and the World Health Organization, regulations which would become binding on all Member States which have not rejected them within a specified period.

Step 11: The United Nations and all specialized agencies should be granted the power now possessed by the International Labor Organization and some other organizations to monitor the ratification, interpretation and enforcement of international conventions adopted under the auspices of the international organization concerned, and to take such action as may be necessary to ensure compliance.

## 2. Peaceful Settlement of Disputes, Peacemaking, and Peaceful Change

The Goal: To strengthen various methods for the just and peaceful settlement of all international disputes in order to provide an effective substitute for the use or threat of force.

Comment: International disputes can be divided into two groups: legal disputes in which the parties are in conflict as to their respective rights under the existing rules of international law; and political disputes in which at least one of the parties demands that a rule of law or a legal situation be changed. If a claim in the second category is not satisfied through peaceful change, the situation may deteriorate to the point that a threat to the peace may result.

While the United Nations has often succeeded in stopping hostilities caused by a political dispute, it has been less successful in securing a settlement of the dispute itself. Even in legal disputes, where the International Court of Justice is available for their adjudication, States now hesitate to submit a dispute to its final decision.

There is a close connection between the Charter provisions relating to the peaceful settlement of disputes and those relating to the maintenance of international peace and security. As long as there is no general acceptance of effective means for settling disputes between nations in a peaceful manner, nations will hesitate to renounce the use of force for achieving what they consider as their legitimate aspirations. Only the establishment of international tribunals, conciliation and investigation commissions and other institutions, granted broad jurisdiction to deal with all kinds of disputes, can encourage nations to rely less on their power to achieve important national objectives. Use of such power, including use or threat of force, cannot be effectively proscribed when no adequate substitute for it is available.

The other side of this dilemma is also apparent. If the nations should concentrate first on creating international institutions for settling disputes and on endowing them with ever-increasing powers, it would become important to ensure that

their judgments were properly enforced. For this purpose, an international force would be required, and such a force could function effectively only in a world in which national armaments had been cut down considerably.

There is also a strong link between international tribunals and world law. Nations are reluctant to submit international disputes to the International Court of Justice if they do not know what rules, principles and standards the Court will apply. On the other hand, if nations do not submit cases to the Court, it cannot contribute effectively to the clarification of legal principles. This vicious circle must be broken if satisfactory progress is to be obtained in these twin areas of adjudication and law-making.

Similarly, effective functioning of an international force would depend on formulating clear rules of international law to govern the force. If the force is authorized to come to the aid of a nation against which aggression has been committed, a careful definition of "aggression" will be needed. Otherwise, there would be constant danger that the force would not act when it should assist a nation, or would take unauthorized steps in a situation not actually involving aggression. At the same time, there must be strong international courts to which quick recourse could be had should the international force abuse its authority, and these courts would function much better if they had a clear set of rules to apply.

Recommendations: The Commission believes that the peaceful settlement of disputes is an important element in the structure of peacemaking, and that the powers of the International Court of Justice and the United Nations in this area need to be strengthened considerably. It suggests, therefore, that the following steps be taken:

#### a. With respect to legal disputes:

Step 12: All States should accept the jurisdiction of the International Court of Justice to decide all disputes relating to the interpretation and application of international treaties.

Step 13: All States should accept the jurisdiction of the

International Court of Justice to decide disputes relating to various categories of rules of international customary law, category by category or as a whole,

Step 14: All States should accept the jurisdiction of the International Court of Justice with respect to legal disputes or legal issues in other disputes which have been referred to it by a party to the dispute, in pursuance of a request by the General Assembly or the Security Council of the United Nations.

Step 15: In the next stage, all States should accept the jurisdiction of the International Court of Justice, under the optional clause in its Statute, with respect to all legal disputes, without any exception or reservation.

Step 16: The Statute of the International Court of Justice should be revised to permit the United Nations to bring a case before the Court against any State which voluntarily accepts a jurisdictional clause to that effect, and in turn to permit any State to sue the United Nations in specified cases. Subsequently this right to sue States should be extended to all intergovernmental organizations, global and regional; and should be balanced by also granting to all States the right to sue these organizations.

Step 17: All intergovernmental organizations, global and regional, should be authorized to request advisory opinions of the International Court of Justice on legal questions arising within the scope of their activities.

### b. With respect to political disputes and peaceful change:

Step 18: The mediation and conciliation machinery of the United Nations should be strengthened, and a permanent conciliation commission should be established.

Step 19: A permanent subsidiary organ of the United Nations should be established, composed of independent experts, to examine the facts, to make the necessary investigations on the spot, and to present recommendations to the General Assembly or the Security Council on the adjustment of political disputes and questions of peaceful change referred to it by the General Assembly or the Security Council.

Step 20: If this subsidiary organ should prove successful, it might later be transformed into a permanent international equity tribunal. Steps should then be taken to enable States to accept the binding character of decisions of the General Assembly or the Security Council endorsing the recommendations of that tribunal.

Step 21: Finally, all States might accept the jurisdiction of the equity tribunal to make directly binding decisions concerning various categories of political disputes involving demands to change legal rights or situations.

3. Disarmament and the Maintenance of International Peace and Security

The Goal: To make the United Nations strong enough so that all States will feel secure, and the States of the world disarmed enough so that no State would be able to challenge the authority of the United Nations to maintain international peace and security.

Comment: The basic object of the United Nations is to save mankind from the scourge of war, and the Charter contains elaborate provisions for the maintenance of international peace and security. But the disagreements among the permanent members of the Security Council have prevented the actual establishment of the machinery for the collective measures envisaged in Chapter VII of the Charter. While the framers of the Charter included in it only a few general provisions concerning disarmament, the atomic bombs dropped at the end of World War II caused a shift in priorities and led to a concerted effort to control nuclear armaments. This resulted in further neglect of the provisions for making military forces available to the United Nations in accordance with Article 43 of the Charter.

The bold United States proposal for putting all nuclear materials under the control of an international authority-the Baruch plan-was rejected by the Soviet Union. No heed was paid to Mr. Baruch's warning, made in his statement of 5 December 1946 to the United Nations Atomic Energy Commission, that the "stakes are greater than ever before offered mankind-peace and security. For who can doubt, if we succeed in controlling the atomic weapon, that we can go on to the control of other instruments of mass destruction? The elimination of war itself is within the range of possibility." After many false starts had led nowhere, the idea was revived that disarmament cannot be achieved without simultaneous improvement of United Nations peacekeeping and peacemaking capacities. Near the end of the Eisenhower Administration, Secretary of State Herter, on 18 February 1960, redefined the goal of disarmament negotiations as follows: "to cut national forces and armaments further and to build up international peacekeeping machinery, to the point where aggression will be deterred by international rather than national force." He pointed out also that to achieve this goal, the following objectives needed to be accepted:

First, to create universally accepted rules of law which, if followed, would prevent all nations from attacking other nations. Such rules of law should be backed by a world court and by effective means of enforcement—that is, by international armed force.

Second, to reduce national armed forces, under safeguarded and verified arrangements, to the point where no single nation or group of nations could effectively oppose this enforcement of international law by international machinery.

Unless both these objectives are kept firmly in view, an agreement for general disarmament might lead to a world of anarchy. In the absence of effective international peacekeeping machinery, nations might violate the disarmament agreement with impunity and thus seek to gain a decisive headstart in building up their armaments. Moreover, since each state would be allowed to retain internal security forces, populous states would retain quite substantial forces which they might—in the absence of such peacekeeping machinery—use effectively against their smaller neighbors.

To guard against these dangers, we should, as general disarmament is approached, work toward effective international arrangements which will maintain peace and security and promote justice according to law. We are ready now to take part in appropriate studies to this end. A useful framework and a considerable body of experience already exists in the United Nations.

These studies could focus on two types of basic and needed change:

First, the strengthening and development of international instruments to prevent national aggression in a world that has been disarmed, except for internal security forces.

Second, the strengthening and development of international machinery to insure just and peaceful settlement of disputed issues in a disarmed world.

Progress along both these basic lines will be needed if the goal of general disarmament is to be fulfilled.

This theme was followed a year later by President Kennedy, in his historic speech to the United Nations on 21 September 1961. In it, he challenged the Soviet Union to a "peace race" and presented to the world a new United States plan for general and complete disarmament under effective international control, a plan "which would create machinery to keep peace as it destroys the machines of war." After listing various disarmament steps which the United States was willing to accept, he came back to peacekeeping:

"To destroy arms, however, is not enough. We must create even as we destroy-creating worldwide law and law enforcement as we outlaw worldwide war and weapons."

He recommended, therefore, the earmarking of special peacekeeping units in national armed forces to be on call of the United Nations and the improvement of the "machinery for the peaceful settlement of disputes" and "for extending the rule of international law." He concluded this part of his speech by stating that "unless man can match his strides in weaponry and technology with equal strides in social and political development, our great strength, like that of the dinosaur, will become incapable of proper control and, like the dinosaur, vanish from the earth."

On the same day, the United States presented to the United Nations its new program for general and complete disarmament in a peaceful world, a most comprehensive document on this subject, much superior to any of its previous proposals.

The principal goal toward which we should strive was defined in this proposal in the following ringing phrase: "A free, secure, and peaceful world of independent states adhering to common standards of justice and international conduct and subjecting the use of force to the rule of law; a world where adjustment to change takes place in accordance with the

principles of the United Nations; a world where there shall be a permanent state of general and complete disarmament under effective international control and where the resources of nations shall be devoted to man's material, cultural, and spiritual advance."

These unilateral United States proposals were followed closely by the McCloy-Zorin statement, released on 22 September 1961, which contained a compromise between the Soviet insistence on general and complete disarmament and United States emphasis on the link between disarmament, peacekeeping and peacemaking. The joint statement formulated this compromise in the following manner:

1. The goal of negotiations is to achieve agreement on a programme which will ensure:

(a) That disarmament is general and complete and war is no longer an instrument for settling international problems, and

(b) That such disarmament is accompanied by the establishment of reliable procedures for the peaceful settlement of disputes and effective arrangements for the maintenance of peace in accordance with the principles of the Charter of the United Nations. . . .

7. Progress in disarmament should be accompanied by measures to strengthen institutions for maintaining peace and the settlement of international disputes by peaceful means. During and after the implementation of the programme of general and complete disarmament, there should be taken, in accordance with the principles of the United Nations Charter, the necessary measures to maintain international peace and security, including the obligation of States to place at the disposal of the United Nations agreed manpower necessary for an international peace force to be equipped with agreed types of armaments. Arrangements for the use of this force should ensure that the United Nations can effectively deter or suppress any threat or use of arms in violation of the purposes and principles of the United Nations.

No statement could be more explicit. The United States

made here an unequivocal commitment to general and complete disarmament under effective control, and the Soviet Union agreed to strengthen the United Nations sufficiently to enable it to deter or suppress "any" threat or use of arms in violation of the Charter.

On 15 March 1962, the Soviet Union submitted to the Eighteen-Nation Disarmament Committee in Geneva a "draft treaty on general and complete disarmament under strict international control." This was followed on 18 April 1962 by the presentation by the United States of a "blueprint for the peace race", in the form of a detailed "outline of basic provisions of a treaty on general and complete disarmament in a peaceful world." As distinguished from the Soviet proposal which was devoted almost exclusively to disarmament, the United States draft contained not only far-reaching proposals on disarmament but also important suggestions for strengthening the peacekeeping arrangements within the framework of the United Nations.

Though the United States has retreated from this comprehensive approach in the last seven years, concentrating instead on partial arms control measures, the goal of "general and complete disarmament under strict and effective international control" has been repeated in 1968 in the Treaty on the Non-Proliferation of Nuclear Weapons. There needs to be, however, simultaneous renewal of the emphasis on the link between disarmament and other requirements for a just and secure peace. We believe it useful to explore further the implications of that link.

Neither disarmament nor an international police force nor world law nor world courts nor greater education toward world-mindedness nor even a strengthened United Nations can, if taken singly, remove all the dangers to peace. It is in the combination of these various remedies that a chance of success lies.

Reductions in armaments do not by themselves guarantee peace. In the early stages of the disarmament process nations will still have sufficient arms to wage a limited war, and such a war can easily grow into a nuclear war. Even in a com-

pletely disarmed world, a nation could use its remaining police forces for an attack or, as in ancient days, employ even primitive weapons to destroy its enemy. It should also be remembered that knowledge of the new weapons cannot be obliterated and, if a war should start, arms production would be revived, the arms race resumed and nuclear weapons brought back. It is not sufficient, therefore, to devise methods for reducing arms and for verifying effectively that nations have disarmed; parallel steps must be taken in other areas to strengthen the institutions for maintaining peace.

Not all these steps need, however, be taken simultaneously. In particular, some disarmament steps do not require immediate strengthening of the peacekeeping machinery. The two superpowers seem to have at present so many weapons of mass destruction that they should be able to destroy a large number of them without upsetting the existing balance of military deterrence. For instance, the United States and the Soviet Union could cut down their nuclear weapons and the means for delivering them by considerable percentages and still each of them would retain enough to be able to intimidate the rest of the world; at the same time, they would also have enough to stop each other from any rash action. Further reductions would depend, however, on bringing in other militarily significant States, and at some point a start will have to be made toward strengthening the peacekeeping machinery. It is difficult to determine at present when this point will be reached. There can be no doubt, however, that when the final stage of disarmament is approached nations will insist that before they dispense with the remaining national military forces, the world community must guarantee their security. Conversely, several disarmament steps could obviously be taken without prior solution of all the intricate problems of establishing and controlling the peacekeeping machinery.

It has been mentioned before that it might be possible to remove some of the present "overkill" capacity without endangering the security of either superpower; neither the United States nor the Soviet Union needs more weapons than is necessary to kill all its enemies. But one cannot expect nations to disarm completely, unless they have obtained first, sufficient guarantees against any threats to their security. It is well known that no inspection system is foolproof and that a determined aggressor can secrete a sizable number of dangerous weapons without risk of immediate detection. Those nations which have, nevertheless, been asked to abandon almost all their armaments will not consider it possible to take such a step unless disarmament is accompanied by the creation of a strong international peace force, able to cope with a sudden threat of aggression. Without a stronger United Nations, able to deal severely with an aggressor or, even better, able to stop him at the first sign of danger, a mere agreement on disarmament might become a perilous trap.

On the other hand, an international armed force established in a world armed to the teeth, would present only a limited guarantee against aggression. It could probably prevent small wars in which none of the big powers has become involved and it might be able to deal with future crises similar to those in Egypt in 1956 and in the Congo in 1960; it could police areas of potential danger and help to relieve some tensions. But it would not have sufficient strength to deal with the principal threat to peace which results from the constantly growing armaments of the big powers. Only after a considerable measure of disarmament would it be possible to rely on an international peace force as a real guarantee against war from any quarter.

Once a decision is made to establish United Nations forces, several options are available. As a minimum one might wish to supplement the present type of peacekeeping forces based on national contingents with a small permanent United Nations interposition force, a "fire-brigade" to be available for quick action while the contingents are being assembled. It is not likely that even the most devoted United Nations Members will pledge military contingents to the United Nations to be used in an unrestricted manner. Pledges will continue to be circumscribed by the requirement that each peacekeeping action, including the rules governing the activities of the force, must be approved by the government concerned be-

fore its contingents will become actually available. If a country should find certain action distasteful or certain rules unsatisfactory, its contingent would not be forthcoming. One cannot blame any State for being so cautious, as no State can be asked to pledge its forces for unknown emergencies and to train them properly for all possible tasks, especially as many of the future crises cannot be easily anticipated. But if there were available a small permanent United Nations force, free to go immediately wherever the United Nations directs it to go, national contingents could be easily adapted to supplement such a force in a more leisurely fashion. Thus a two-step approach might be adopted. In the first step, the permanent United Nations force would be sent to the trouble spot; in the second step, national contingents would temporarily take the place of the permanent force wherever it was employed before the emergency arose. For instance, as long as there is a United Nations Force in Cyprus, its function could be normally performed not by national contingents, as at present, but by a directly-recruited volunteer United Nations force owing its allegiance to the United Nations only. Such a force could be trained for a variety of tasks, and it could be used anywhere. Should an emergency arise, the United Nations force would be able to move immediately to the trouble spot as it would have the necessary transportation facilities and equipment. Once an agreement on the employment of the force is reached by the United Nations and the country concerned, quick action would be possible, thus avoiding the delay which in the past has often aggravated the situation and has made the task of the United Nations forces more difficult.

In order to use the new United Nations force stationed in Cyprus (or in some other place), it would be necessary to replace temporarily the units sent to the danger area with national contingents. Thus, in the second step, national contingents would be quickly flown to Cyprus (or its future equivalent) to fulfill the duties of the United Nations force there, while the force is employed elsewhere. As this replacement obligation can be clearly defined in advance, would be limited in scope, would permit special training and would in-

volve practically no danger for the troops in view of the relative peacefulness of the area in which they would be stationed, it ought to be much easier for many States to accept this specific duty. It is likely that most countries would be able and willing to provide contingents for a temporary replacement duty in a specified area though they would hesitate to sign a blank check committing national units to service anywhere in the world and to unspecified future tasks which might involve grave danger to the troops.

The original United Nations interposition force need not be large, as its function would be local peacekeeping and not fighting a war against an aggressor. It would be a police force in the narrower sense of the word rather than a full-fledged military force. If the United Nations could have at least 5,000 men ready for quick action, well-trained and properly equipped, it would make an important difference in many situations where the speed of United Nations interposition is more important than the size or military strength of the force. Later such a force might be increased to 10,000 or more.

At the same time, the standby contingents made available by various States to the United Nations for peacekeeping purposes need to be strengthened on the lines suggested in the report on "Controlling Conflicts in the 1970's", prepared in April 1969 by a UNA-USA National Policy Panel. Some units might be available automatically for prompt action; for instance, for replacing the "fire-brigade" force in a stabilized situation, or to assist that force where a larger number of troops is needed. Other units might be earmarked as reserves, to be available on a few weeks' notice.

By the time we reach the later stages of disarmament, it might be possible to establish a more ambitious United Nations military force strong enough to challenge any violator of international obligations. The achievement of that goal would depend on progress toward disarmament, since no international force could dream of challenging one of the heavily-armed States of the present century. But should it prove possible to achieve disarmament of the scope envisaged by the 1962 proposals of the United States and the Soviet

Union, a strong United Nations Peace Force would become a necessity. Such a force would have to be truly international, and would be composed not of national contingents but of well-trained volunteers. It should be highly mobile, able to step quickly into any situation. As far as possible, such a United Nations force should try to prevent a violation or to stop it before it became serious; it should ordinarily act to prevent a threat to peace rather than wait until an act of aggression had to be suppressed. It should, therefore, be supplemented by a United Nations Peace Observation Corps, the members of which might be stationed throughout the world, establishing a United Nations "presence" in every country. Such observers could keep the United Nations informed about every incipient threat to peace, and thus allow prompt action before a situation got out of hand.

Various safeguards will have to be built into the structure of the United Nations force to ensure that it will fulfill its role in an impartial and objective manner. It will be necessary, in particular, to prevent the domination of the force by any group of nations, or by its own commanders. Studies made in the United States, the United Kingdom, Canada and the Scandinavian countries make clear that such guarantees, though difficult and not perfect, can be devised.

Recommendations: Taking these considerations into account, the Commission believes that parallel steps are needed with respect to disarmament and the strengthening of the capacity of the United Nations to maintain international peace and security. Once the United Nations is sufficiently strengthened, far-reaching disarmament measures will become possible. The following steps might, in particular, be taken in these two areas:

To increase the United Nations capacity to maintain international peace and security:

Step 22: An effective United Nations Peace Observation Corps should be developed, the members of which would be used to establish a United Nations "presence" in any place in the world where a danger to peace might arise. Each State

would be obliged to permit such presence, when so requested by the General Assembly, the Security Council or, in an emergency case, the Secretary-General.

Step 23: A permanent United Nations "fire-brigade" should be established. It should be composed of at least 5,000 well-trained and well-equipped volunteers who should be able to move quickly to any crisis area to prevent a breach of the peace, to assist in a cease-fire, to interpose between fighting forces, or to re-establish local law and order in case of a breakdown. Such volunteers would be exempt from national military service.

Step 24: In view of constant difficulties encountered by the United Nations in obtaining funds for a particular action to maintain or restore peace, a United Nations Reserve Fund should be established by the General Assembly to finance such activities.

Step 25: In addition to the small interposition force, a standby United Nations Peace Force of 25,000 should be established, composed of specially trained national contingents from States other than the permanent members of the Security Council. This force would be available automatically for any United Nations action to maintain or restore peace whenever a United Nations authority should decide that additional assistance is needed for the volunteer interposition force.

Step 26: Arrangements should be also made for a supplementary force of 50,000, composed of earmarked units which would be available on two to eight weeks' notice whenever the State supplying particular units agreed to their use in a specific case.

Step 27: Finally, in a substantially disarmed world, it should be possible to establish a preponderant United Nations military force, which would be individually recruited by, and would owe allegiance to the United Nations. Such a force should be strong enough to deal with any challenger, as long as it had the support of the vast majority of the States and the peoples of the world, expressed through a properly reorganized United Nations (see Section 9, below). To ensure that the



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