FOREIGN POLICY DIMENSIONS OF THE CRISIS IN OIL

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INTRODUCTION

This Article's message is stark and blunt.[1] Although slow progress is being made toward a coherent domestic energy program, continued failure to deal effectively with the foreign policy dimensions of the oil crisis will increasingly erode Western security and destabilize the global economy. Cooperative policies

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1. This Article deals only with the resource crisis in hydrocarbons, which is of fundamental importance to national well being and the security of the West. No other resource is in combination as narrowly concentrated in export surplus, as great a percentage of total world trade, as widely important in production, as effectively controlled by a global cartel, as relatively inelastic in substitution potential (at least in the short run), as difficult to stockpile in needed quantity, as influenced by events in a relatively unstable region, and as influenced by nations neutral to or even hostile to the West.

To date the resource crisis *is* the oil crisis. This is not, however, to denigrate the importance of access to other resources or of defusing other potential resource problems. There could be potentially serious problems in access to certain minerals now produced largely in South Africa, particularly certain rare earth metals, should there occur an acute political crisis in South Africa. And apart from the South African problem this country has an interest in access on reasonable and stable terms to resources of all kinds. Problems in this regard include destabilization of investment guarantees and the rule of law pursuant to excessive claims of the new economic order and sovereignty over natural resources, and maintenance of assured access to minerals from the deep seabed, Antarctica and ultimately space. Although these latter three areas may seem remote, the first may be within a decade of commercial development and all three are the subject of international attention now establishing the regime for their exploration and development. For a discussion of the resource issues involved in access to deep seabed manganese nodules, see Moore, *In Search of Common Nodules at UNCLOS III*, 18 VA. J. INT'L L. 1 (1977). For a discussion of the Antarctic and space issues, see, e.g., ABA INTERNATIONAL LAW SECTION, REPORT AND RECOMMENDATION ON POLAR POLICY (1980); ABA INTERNATIONAL LAW SECTION, REPORT AND RECOMMENDATION ON AGREEMENT GOVERNING THE ACTIVITIES OF STATES ON THE MOON AND OTHER CELESTIAL BODIES (1980).

for dealing with the foreign policy dimensions of the oil crisis offer some promise of increased stability if the required political leadership can be mobilized. At a time of endemic crisis—including the ordeal of American diplomats held by Iranian militants and the Soviet invasion of Afghanistan, both in blatant disregard of international law—fundamental trends become dulled and obscured. Yet the continuing instability in oil price and supply is a deepening crisis that because of its pervasive impact on the global economy and political balance may well be the most serious threat the West faces today. Even the Iranian and Afghanistan crises are in part products of the instability radiating from the oil crunch. The single greatest foreign policy demand for the West, and indeed all mankind, may be an effective foreign policy to deal with oil.

The response in America and in the West has been to turn inward toward national policies for alleviating the oil crunch and largely to ignore the foreign policy dimensions of the problem. Despite differences in approach, it is widely understood that the oil crunch requires an appropriate mix of national energy policies. In a national effort to reduce dependence on foreign oil, the roles of conservation, price decontrol, alternate energy sources, and added taxes are broadly debated. According to a recent assessment, the slow and painful policy changes resulting from this debate may move the United States at most halfway to a coherent national energy program by 1980.[2] The national debate, however, largely bypasses the foreign policy dimensions of the problem. President Carter's energy and anti-inflation statements illustrate several domestic steps to reduce national demand for imported oil, but do not contain a single foreign policy initiative.

The foreign policy dimension of the problem, however, is at least as vital as the domestic. The oil shock following the Iranian revolution is a reminder that foreign events still largely influence oil prices and supplies. About one quarter of the world's commercial energy is from Organization of Petroleum Exporting Countries (OPEC) oil.[3] The intermediate future (to the year 2000) holds little promise of a radical shift in world dependence on OPEC oil, although in the long run higher prices may lead to

2. Stobaugh & Yergin, *Energy: An Emergency Telescoped*, 58 FOREIGN AFFAIRS 563, 593 (1980).

3. INDEPENDENT COMM'N ON INT'L DEVELOPMENT, NORTH-SOUTH—A PROGRAM FOR SURVIVAL 163 (1980) [hereinafter cited as BRANDT COMMISSION REPORT].

other alternatives that are not now anticipated. A half decade after "Project Independence" the United States imports about forty-five percent of its oil rather than the earlier thirty to forty percent dependency. Regardless of success in meeting domestic conservation goals, a foreign policy for oil is as vital as an effective domestic energy policy since OPEC has the ability to decrease production to rachet price. The threat of a political embargo cannot be countered by a purely national program, given the magnitude of current dependence. Any foreign policy for oil, however, must employ a coherent domestic energy base that reduces pressures for imported oil and that establishes a sufficient strategic reserve. In short, adequate policy requires an effective foreign policy component, which in turn requires an effective domestic energy base.

I. Dimensions of the Problem

According to current projections, worldwide production of oil from oil fields will begin to decline by the year 2000. OPEC control over most of the surplus oil available for export prevents a free oil market and has resulted in repeated oil shocks as prices quadrupled in 1973-1974 and more than doubled again in 1979. Tight supplies, threats of political embargo, recent OPEC policies reducing production to keep supplies tight, and the relative inelasticity of short term demand for oil created near panic in oil markets. These factors also made prices highly sensitive to minor shortfalls in supply or even to expectations of such shortfalls. The illusory pre-Iranian revolution "oil glut" of 1978 obscured this fundamental instability. The current temporary "oil glut" resulting from the post-Iran scramble for oil should not be permitted to do so. Another disturbing component of the oil crisis which influences global oil policy of nations such as Libya and now Iran is the anti-Western bias of some of the oil surplus exporters. This bias, sometimes referred to as the "hostile oil" problem, exacerbates efforts at constructive accomodation.

The oil crisis causes or aggravates other serious problems. For example, radically increased oil prices and associated national political responses increased inflation and decreased growth in the Western democracies. This was particularly evident in the worldwide reaction to massive price hikes in 1973 and again in 1979.

The crisis also contributes to instability in global financial markets and makes management of financial problems more difficult. For instance, following the 1979 "second oil shock" long term loans were made to developing countries to help them meet their oil bills. These loans, financed by short term, OPEC Eurodollar deposits, are increasingly unstable. In addition, growing pressures for protectionism in world trade—and conversely for unfair dumping—result from the need to earn foreign exchange to pay for the net foreign exchange deficit to OPEC countries.

Higher oil prices result in a devastating economic impact on non-OPEC developing countries. The oil induced global economic malaise that occurs when exports decline, protectionism increases, and real levels of aid decrease, also contributes indirectly to economic difficulties. Since they obtain about two thirds of their commercial energy from oil, these developing countries are even more dependent on OPEC oil than are the developed countries, which obtain about one half of their energy from oil.

High wealth transfers and increasing realization of the importance of oil produce increased instability in the Middle East. The events in Iran and Afghanistan exemplify the internal and external pressure that often accompanies sudden economic and cultural change.

The magnitude of the wealth transfer to OPEC nations is staggering and certainly the greatest in history. To conceive of OPEC actions as part of an effective "new world economic order" alleviating the gap between rich and poor nations, however, is to turn the doctrine on its head. Although some OPEC members such as Nigeria and Venezuela clearly are developing countries, others such as Kuwait already possess among the highest per capita wealth in the world. An indication of the power of old ideology—or perhaps the new power of oil—is that so many still accept this myth.

Even the rule of law is deteriorating, causing breakdowns in conditions for stable investment abroad. Routinely, some OPEC nations break supply contracts and impose retroactive price increases, then worry about the safety of their assets and a decline in their own opportunity for overseas investment.

Finally, serious but less evident is the erosion in the power of Western democracies vis-á-vis the Soviet bloc. The oil crisis has had a greater economic and political impact on the West. Strains within the Western alliance caused by efforts at individual accommodations with OPEC have worsened the problem. Some would suggest that the steady erosion in Western military power compared to Soviet power was encouraged by the oil induced economic malaise of the West since the 1973-1974 quadrupling of oil prices. The Soviet Union is still the world's largest oil producer and will be drawn into the oil crisis far more slowly than Western nations. Even at the height of their dependence, they will be far less dependent on foreign oil than the West or the non-OPEC developing world.

II. The Objectives of a Foreign Policy for Oil

The seriousness of the oil crisis must be recognized before affirmative policies for dealing with it can be developed. To formulate an appropriate response, the United States must know precisely what it would like to achieve. Failure to articulate goals with specificity is a common cause of policy failure. With respect to the oil crisis, the most important goal of our foreign policy is to increase stability of price and supply. To accomplish this, the United States must end political embargoes in oil and establish the impermissibility of supply interruptions for political reasons. It must also end oil pricing shocks and restore stability of expectations concerning oil prices. Chaotic and unpredictable oil price increases are extremely harmful to the global economic fabric and deter more orderly conservation efforts. Moderate real oil price increases also would lead to stability. Such increases would provide a fair return to oil producers and would maintain prices at a level sufficiently high to encourage conservation and substitution, but not high enough to impose crippling burdens on the global economy. This may require a system of gradual increases in oil prices indexed to inflation, and then perhaps small, real increases of one to two percent apportioned on a quarterly or semi-annual basis. A one percent or two percent real increase in the price of oil on an annual basis is the equivalent of an increase in real terms respectively of twenty-two or forty-seven percent in the price of oil over the next twenty years. Stability would be advanced further by a contingency reserve supply system applicable to both developing and developed importing nations. This system could cushion the impact of any inadvertent interruptions in oil supply due to internal unrest, natural disaster, or other causes. Finally, a likely prerequisite for increased stability of price and supply is a long term, year by year agreement on oil import quotas among the principal oil importing nations. This would encourage orderly conservation and substitution without straining available supply.

A mechanism for petrodollar recycling into productive investment is also a worthwhile objective. This would involve meaningful investment guarantees to OPEC members for investment abroad. Although useful in easing the surplus from the 1973-1974 oil shock, reliance on increased trade with OPEC nations no longer seems feasible in view of the more than 100 billion dollar surplus in 1980, and the increasing evidence that too rapid OPEC industrialization can contribute to internal unrest.

Another goal of our foreign oil policy should be to encourage increased exploration and development of oil, particularly in non-OPEC developing countries. As the Brandt Commission report points out, the drilling density in non-OPEC developing countries is only about one-fortieth of that in the industrial world.[4] This might require a greater capital commitment from developed countries and in turn more meaningful investment guarantees and permitted rates of return from non-OPEC developing countries. The United States should also develop a mechanism to assist non-OPEC developing countries to meet their inreasingly onerous oil induced foreign exchange deficits and to ensure stability of current loans.

A crucial goal of our policy should be to restore the rule of law in oil investment arrangements and supply contracts. Investments must be guaranteed and contracts must be respected. Recent exaggerated arguments based on "the new economic order" or rights of "sovereignty over natural resources" should not be permitted to obscure the common interest in stable expectations. OPEC must understand that the stability provided by the rule of law is vital to its worldwide investments.

Furthermore, the United States should encourage increased research and development on a global basis in technology of oil conservation and renewable energy resources. This country should seek policies that enable full utilization of the strengths and expertise of the private sector in oil and energy matters, and promote maximum sharing of this technology on fair and pro-

4. *Id.* at 164.

ductive terms.

Finally, the United States should seek policies that will promote political stability in the Middle East and reduce the potential for internal and external threats to this key oil surplus region. For instance, this country should work to restore NATO unity and cooperation in energy matters, and to encourage a constructive role for the United Nations in meeting the oil crisis.

III. Persistent Myths Obscuring the Oil Crisis

The relative absence of debate about the foreign policy dimensions of the oil crisis seems partially due to persistent myths about the nature of the crisis. Each myth contains enough truth to be plausible and enough falsity to be seriously misleading.

First, there seemingly is widespread acceptance of the claim that the limited supply of oil (in oil fields) makes OPEC price increases inevitable if not advantageous to global conservation. The real problem, however, is politically induced uncertainty of supply, coupled with erratic and quantum price leaps. Increasing the price of oil to equal the value of its substitutes does not require politically motivated reduction in supply or erratic year to year doubling or even quadrupling of price. Such erratic markets severely strain the global economic fabric.

Second, although some argue that inflation, currency devaluation and large profits by multinational oil companies are to blame for the oil crisis, factually these charges are unsupported. Since 1970, yearly inflation has averaged about eight and one-half percent worldwide and six and one-half percent within the United States. During that period, the dollar has declined against representative currencies by about ten percent. In addition, oil company profits, in terms of return on investment, averaged about ten percent in 1970 and twelve percent in the windfall profit year of 1979. In the same period, OPEC oil prices increased at least 1500 percent. This far exceeds the impact of inflation and currency devaluation on OPEC. Both oil company profits and government income from oil have risen substantially under OPEC, but OPEC income has risen roughly three times faster. Moreover, even accepting OPEC figures, from 1973 to 1978 OPEC oil exports dropped by about three percent, yet imports from the West rose by about sixty-seven percent. OPEC also was adding to cash surplus during this period. Substantial oil price hikes since 1968 make this flow of goods even more one-sided. Admittedly, oil prices have declined in real terms during some periods, most notably in the pre-OPEC period of 1955 through 1970—a twenty-five percent decline in real terms—and to a lesser extent from 1974 to 1978 as the 1973-1974 quadrupling of oil prices was digested. Overall, however, oil prices under OPEC have risen substantially faster than inflation.

Third, the claim that the nations of OPEC have a right as sovereign nations to establish their own resource policies in pursuit of their national interests in the sale of oil has gone unquestioned. Yet, oil is unlike any other commodity in world trade. Its minimum price and supply are largely controlled by a producer cartel acting independent of consuming nations. Compounding the problem, oil comprises a much higher percentage of total trade than other commodities. Indeed, in dollar value, about fifteen percent of all international trade this year was oil. In the short run, demand is relatively constant even with rapidly rising prices. The world became hooked on petroleum when oil was cheap, and that addiction can only be cured over time.

The consequences of this unique synergism in world trade are: disappointment of third world countries' hopes of development; stalled growth and increased inflation in the developed countries; protectonist pressures leading to decreased efficiency in world trade; weakening of Western democracies vis-á-vis the currently oil sufficient Soviet bloc; disorderly international financial markets; and increased security threats and internal disturbances in the OPEC countries themselves. World interdependence on oil alone justifies discounting the national sovereignty argument, not to mention massive wealth transfers from the poorest of nations and routinely discarded contracts. Surely a policy pursued by a small cartel of nations that has contributed significantly to destabilizing the global economy, that may have removed more wealth from developing countries than in the entire history of colonialism, and that daily increases the risk of confrontation in the Middle East deserves recognition as an international moral and political problem of the first magnitude. The national sovereignty argument also conflicts with Articles 55 and 56 of the United Nations Charter which state:

Article 55

The United Nations shall promote:

a. higher standards of living, full employment and

> conditions of economic and social progress and development.
> b. solutions of international economic, social . . . and related problems.
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> Article 56
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> All members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.[5]

These articles are binding on all United Nations members and, pursuant to Article 103 of the Charter, prevail over any conflicting obligations.

It is also difficult to use national sovereignty as a basis for disregarding international oil agreements in light of the well established norms of international law concerning the honoring of agreements. The national sovereignty claim does not justify OPEC's efforts to prevent effective establishment of a strategic oil reserve in the United States, nor does it justify OPEC's deliberate use of oil as a weapon to achieve international political objectives. Nations certainly should not accept national sovereignty as a blanket defense against criticism of such OPEC policies.

Fourth, because OPEC prices are lower than oil spot prices in global markets, some believe that OPEC is acting reasonably and with restraint. Some members of OPEC, most notably Saudi Arabia, have sought to moderate run away price increases. They may have prevented what could have been an even worse oil shock following last year's dramatic Iranian fall off in production. Yet, that events could have been worse or that some OPEC members have sought to promote restraint does not demonstrate that overall OPEC actions are reasonable or acceptable. Moreover, the argument fails to note that the current OPEC pricing agreement establishes only a minimum price, and members are free to charge whatever the traffic bears. The argument also fails to note that in the fairly inelastic global market for oil, prices can be pushed up as effectively by limits on production as by minimum price agreements. Actually, the supply squeeze following the Iranian reduction in output has pushed up prices. Since panicky post-Iran stockpiling of oil has produced high inventories globally, several members of OPEC initiated major reduc-

5. U.N. CHARTER arts, 55, 56.

tions in output as of April 1. This "April Fools" message is no joke. It demonstrates that OPEC's contrived production limits, even more than their minimum price agreements, are likely to keep oil prices high and rising.

Fifth, many claim that OPEC nations may be better off keeping oil in the ground instead of meeting reasonable current demand and investing the resulting surplus. Even if this would maximize OPEC wealth, the international dimensions of the crisis suggest that OPEC's well being should not be the sole permissible criteria as nations of the world seek an orderly transition from cheap oil to the new reality of expensive energy. The argument, moreover, fails to recognize that OPEC actions are largely responsible for oil in the ground appreciating faster than the inflation rate, and thus being a better investment than carefully invested oil receipts. Furthermore, allowing OPEC to sit on its oil would result in a constant rise in the price of oil sufficiently above global inflation to match the from three to twenty percent real rate of return common on productive investment. Such a price rise, compounded over the short run oil transition future, would catastrophically affect the global economy, particularly in the case of developing countries. The United States must, of course, encourage constructive alternative surplus investment opportunities and guaranties as a necessary part of a workable accommodation on oil.

Sixth, it sometimes is urged in defense of OPEC pricing that OPEC is the modern day Robin Hood of the new economic order, rapidly transferring wealth from the rich to the poor. Developed countires do use more oil, but the image of OPEC as a contemporary Robin Hood is inaccurate. Among other problems with this analogy, OPEC members with the largest oil reserves already have higher per capital incomes than the developed countries. The impact on and transfer of wealth from non-OPEC developing countries to OPEC surplus members is an enormous shift, not from rich to poor, but from the poor to the rich. Moreover, the oil crisis has a dramatic effect on developing country economies. It causes a general stagflation in the developed world and results in increased protectionism, decreased imports, and reduced real levels of aid to non-OPEC developing countries. For example, many other natural resources such as copper, which are essential to the economies of many developing countries, fare poorly in a general economic downturn like that following the 1973-1974 oil shock. In addition, the transfer favors the Soviet Union in view of the current Soviet sufficiency in oil. Indeed, it enables transfer of even greater wealth from the Soviet bloc Eastern European nations to the Soviet Union, since the Soviets charge near world oil prices to Eastern European satellites. The more rapid increase in oil use by developing countries promises a greater yearly proportional wealth transfer from non-OPEC developing countries to OPEC. This transfer is not adequately offset by the much publicized OPEC aid given in return.

Seventh, some Western policy makers oppose any commodity agreement between producers and consumers in oil because of general opposition to commodity agreements and their resulting interference with a free market place. Most agree that commodity agreements can reduce efficiency. But there is no free market in oil, and the oil price and supply crisis is attributable, in part at least, to a powerful cartel. To worry about the precedental impact on other less important commodities when precedents such as the coffee agreements abound, overstates the concern and underestimates the crisis in oil. Moreover, oil in the ground, as a depletable resource, will be conserved if an agreement results in artifically higher prices.[6]

Eighth, Western nations identify the oil crisis with settlement of the Arab-Israeli conflict. This identificaton is overly pessimistic since it assumes that continuation of an extremely intransigent conflict makes seêking independent solutions to the oil crunch futile. The oil crunch, however, requires tailor made policies and cannot be subsumed in the Arab-Israeli conflict.[7]

Ninth, Western nations equate solutions to the energy crisis with domestic energy policies. Whether viewed as an energy crisis or an oil crisis, the vigor of the national debate on energy policies obscures the international dimensions of the problem.

Tenth, some argue that the West must get its own domestic energy policies in order before dealing with the crisis on an international level. This argument is an overstatement, since OPEC can always affect domestic energy supplies by production cuts. The argument dangerously forestalls cooperative solutions. The calmer oil years of 1974 to 1978 wil not return. If the cur-

6. Absent an agreement, this occurence seems highly unlikely, given oil pricing behavior subject to an OPEC oil cartel.

7. *See generally* THE ARAB-ISRAELI CONFLICT (J. Moore ed. 1977).

rent post-Iran relative lull passes, the opportunity for cooperation may be lost. Finally, this argument depends on the inactivity of radical OPEC members for a time long enough to allow the West to put its house in order. Unfortunately, radicals are eagerly and successfully pushing linkage of the oil crisis with the entire North-South agenda.

Eleventh, some think that producer-consumer cooperation in oil is impossible because of the Iran factor. They believe that any producer-consumer arrangement would fail because supply levels are so marginal and the Middle East so unstable that any arrangement would inherently break apart as random and massive shortfalls rock the oil market and force prices up in quantum leaps. This may be substantially true, although it embodies a foreboding view of events in the Middle East. This argument also fails to note that an understanding might reduce Middle East shocks and offer assistance in limiting oil imports, encouraging an oil reserve mechanism against such shocks, and expanding production and price restraint during such shocks.

Last, the greatest source of paralysis seems to be the conviction that nothing can be done with the oil crunch except to tighten our domestic belt. This is not necessarily true. An international agreement among consumers and producers for increased stability in oil price and supply might be helpful. Such an agreement could provide mechanisms for orderly price increases and stability of supply, coordinated conservation among principal importers, debt assistance for developing countries, and guaranties facilitating recycling of petrodollars into productive investment. Also, it could promote global agreement that neither oil nor foodstuffs, as primary commodities in world trade, could be the object of political embargoes. All participants in the oil crisis need to avoid sudden massive shocks to the global economy. They also need to develop workable mechanisms both for recycling petrodollars into productive investments and for meeting the current account needs of developing countries. An agreement could be reached that would permit a reasonable and gradual increase in the price of oil above the inflaton rate. That would benefit all nations through improved stability of price and supply. Such an agreement must also recognize the ultimate scarcity price of oil in the ground and provide a fair return to producer countries for their resources.

Without minimizing the serious difficulties, there are some straws in the wind suggesting the feasibility of such an agreement. Since there is currently no free market in oil, the usual reluctance of developed nations toward commodity agreements should not prevail. Recently, Peter Peterson, a former Secretary of Commerce and member of the Brandt Commission, suggested a "concordat" in oil among developing countries, oil importing countries, and oil exporting countries. In addition to measures for alleviating the escalating debt crisis among developing countries, he suggests that such a concordat should deal with security of supply, more predictable and gradual price increases, more stringent conservaton, and major investments in energy development in developing countries. As for OPEC nations, they must understand that the present chaos cannot continue without greatly increased security risks to the producing nations as well as an undermining of their investments throughout the world. The spectacle of a rush to gold rather than productive investment is symptomatic of an economic and political malaise harmful to both OPEC and non-OPEC countries. Apparently in recognition of these problems, and with the support of Saudi Arabia and Venezuela, OPEC's Long-Range Strategy Committee recently conducted an initial study on the feasibility of some form of producer-consumer dialogue on long range supply. Although developing countries may not lead the dialogue, they are the hardest hit and generally support producer-consumer agreements as an article of faith of the new economic order.

Actually, the 1979 OPEC price rise is expected to increase the developing country import bill by twelve billion dollars in 1979 and eighteen billion dollars in 1980. In 1980 alone, the developing countries' combined deficit is expected to rise to a staggering fifty billion dollars, suggesting that developing countries ought to support an appropriate dialogue. Perhaps for these reasons, the recent Havana declaration of the nonaligned nations calls for global negotiations including negotiations on energy. Even the Soviet Union should be interested because of its expected entry into the world oil markets in the early 1980s and the escalating risk of confrontation in the Middle East.

The upcoming United Nations General Assembly is expected to call for global negotiations, including negotiations on energy, to begin sometime in 1981. If the agenda is too broad, as now seems to be the case, such global negotiations seem unlikely to be productive. Indeed, a more limited effort at producer-consumer talks within the Conference on International Economic Cooperation failed, in large part because of an overly ambitious agenda going well beyond oil problems. Some OPEC members may insist that talks be held only as part of a global agenda including a broad range of development and technology transfer issues. Such efforts at an overly broad agenda should be recognized as sophisticated opposition to agreement that will only ensure continuation of the present crisis.

An oil dialogue would have little chance of success if not carefully designed and seriously pursued in concert with OPEC moderates, affected non-OPEC developing countries, and major oil importing nations. The United States might quietly explore the potential for and scope of such talks with our Organization of Economic Cooperation and Development (OECD) allies, Japan (perhaps within the framework of the International Energy Agency (IEA) and the economic summit), moderate OPEC members such as Saudi Arabia, key non-OPEC developing countries such as Mexico and China, and even the Soviets. If a basis for productive talks emerges, perhaps all could seek the support of the Economic and Social Council (ECOSOC), and then the United Nations General Assembly, for an appropriate forum designed to permit rapid and productive agreement.

IV. Past and Present Efforts at International Cooperation to Control the Oil Crisis

The oil crisis emerged in public and political consciousness only after the 1973-1974 first oil shock. The shock followed the OPEC oil embargo against the United States and the Netherlands, who supported Israel in the Yom Kippur War. Since that time, in addition to others of lesser importance, four important international initiatives have been aimed at the oil crisis. Two of these relate to efforts among the principal oil importing developed nations of the West. The other two raise energy issues in a broader forum of North-South talks with OPEC, non-OPEC developing countries, and the principal participating Western importing nations.

Immediately following the first oil shock, a group of nations centering on the OECD and including the United States, Germany, Japan, Italy, Canada, and Great Britain agreed on an international energy program. The heart of this 1974 program was creation of an International Energy Agency that would allocate scarce oil supplies among the member nations in the event of a significant oil shortfall of at least seven percent and that would trigger coordinated emergency demand restraint measures among the members. The Agency also would oversee an improved oil information system and establish a framework for consultation with oil companies.[8]

The establishment of the International Energy Agency, which now includes twenty members, is an important step in planning for future emergencies and providing for coordination

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8. Of potential future importance, chapter VIII of the 1974 Agreement provides:

Article 44

The Participating Countries will endeavour to promote co-operative relations with oil producing countries and with other oil consuming countries, including developing countries. They will keep under review developments in the energy field with a view to identifying opportunities for and promoting a purposeful dialogue, as well as other forms of co-operation, with producer countries and with other consumer countries.

Article 45

To achieve the objectives set out in Article 44, the Participating Countries will give full consideration to the needs and interests of other oil consuming countries, particularly those of the developing countries.

Article 46

The Participating Countries will, in the context of the Program, exchange views on their relations with oil producing countries. To this end, the Participating Countries should inform each other of co-operative action on their part with producer countries which is relevant to the objectives of the Program.

Article 47

The Participating Countries will, in the context of the Program:

seek, in the light of their continuous review of developments in the international energy situation and its effect on the world economy, opportunities and means of encouraging stable international trade in oil and of promoting secure oil supplies on reasonable and equitable terms for each Participating Country;

consider, in the light of work going on in other international organizations, other possible fields of co-operation including the prospects for co-operation in accelerated industrialization and socio-economic development in the principal producing areas and the implications of this for international trade and investment;

keep under review the prospects for co-operation with oil producing countries on energy questions of mutual interest, such as conservation of energy, and development of alternative sources, and research and development.

Article 48

1. The Standing Group on Relations with Producer and other Consumer Countries will examine and report to the Management Committee on the matters described in this Chapter.
2. The Management Committee may make proposals on appropriate co-operative action regarding these matters to the Governing Board, which shall decide on such proposals.

among Western oil importers in case of a serious oil supply shortfall. The agreement provides a framework for coordination of importer positions in any producer-consumer talks and empowers the Agency to resolve oil price and supply uncertanties.

The second important initiative among Western importing nations was the agreement reached in June 1979 at the Tokyo Economic Summit. This agreement froze oil imports for 1985 at 1977-1978 levels on an individual country basis and restricted 1980 oil imports. This economic summit was initiated by the French in 1975 and is an annual meeting of the heads of state of the seven major industrialized nations of the West as well as the President of the Commission of the European Communities. Subsequently, this general agreement was broadened and toughened at the December ministerial meeting of the IEA. The IEA limited collective oil demand in 1980 and 1985, and established a mechanism for revising ceilings downward to reduce marginal price pressures on the oil market. This import quota agreement and framework for extending it is an extremely important step forward in the transition from cheap oil. Without producer cooperation, however, this mechanism cannot deal with overall oil price and supply instability or resolve the financial crisis posed by non-OPEC developing country debt burdens and inadequate mechanisms for recycling an enormous petrodollar surplus.

The third important energy initiative which occurred at the 1975-1977 Conference of International Economic Cooperation (CIEC) was dominated by producer-consumer discussions. This was a broad North-South dialogue initiated by French President Valery Giscard d'Estaing. Initially, it was conceived as an energy dialogue among the members of OPEC, the principal industrial countries and the principal non-OPEC oil-importing, developing countries. OPEC, however, insisted that the meeting be broadened to include an agenda of North-South issues unrelated to oil, including resource and development policy. Many reasons are given for the failure of the Conference, including its timing in the aftermath of a worldwide recession. It is not surprising that the Conference failed, however, given the breadth of the agenda.[9] Some suggest that Algeria was responsible for OPEC's

9. *See, e.g.*, Amuzegar, *A Requiem for the North-South Conference*, 56 FOREIGN AFFAIRS 136 (1977); Turner, *Oil and the North-South Dialogue*, WORLD TODAY, Feb. 1977, at 52.

insistence on discussing general North-South issues.[10] From an OPEC standpoint, such insistence could be an effective ploy to shift attention from the oil crisis and to decrease pressure for meaningful concessions. It is unclear why the West accepted this unproductive broadening of issues. The record does show that the United States initially fought against it. As anyone with experience in United Nations negotiations will attest, there is a direct relationship between the length of an agenda and the time required to negotiate. A discussion of general North-South issues will take a decade or longer.

The fourth major international initiative concerning the oil crisis is the current effort within the United Nations General Assembly to promote global negotiations on international economic cooperation for development, including major issues in the field of raw materials, energy, trade, development, money and finance. Like the CIEC talks, it includes OPEC, non-OPEC and the principal industrial nations. General Assembly Resolutions[11] calling for such global negotiations repeatedly refer to a new economic order and stress the central role of the General Assembly and the participation of all states in the negotiations. According to the resolutions, such global negotiations are to be launched at the 1980 special session of the General Assembly. Preparatory work for such a discussion on procedures and agenda is to proceed in the Committee of the Whole, established under an earlier General Assembly Resolution.[12] The United States plans to participate in this preparatory phase but apparently has reserved its position on participaton in the actual global negotiations.

If the CIEC talks are likely to result in a decade of negotiations, broadening the agenda and number of participants seems a prescription for total nonagreement. These well meaning General Assembly resolutions, adopted without opposition by the United States or any other nation, will make it more difficult to develop an appropriate forum and agenda to deal with the pressing problems of oil price and supply, which affect developed and

10. Turner, *Oil and the North-South Dialogue*, WORLD TODAY, Feb. 1977, at 52.

11. G.A. Res. 34/138, 34/139 (1979). The resolutions were adopted without vote on December 14, 1979.

12. G.A. Res. 32/174 (1977). Such broadening occurred in the global negotiating initiative, which was urged at the recent 1979 Non-Aligned Countries meeting in Havana.

developing nations alike.

Finally, although not a governmental initiative, the recent report of the independent commission chaired by Willy Brandt concerning North-South issues,[13] is an important event in foreign oil policy. The Brandt Commission Report includes a chapter on energy in its broad discussion of North-South economic and development problems.[14] The chapter realistically points out that the short run difficulties of transition to expensive energy will continue for a long time and that in this period "no country can escape serious disruption if its supplies of oil are drastically reduced."[15] Oil is the leading commodity, making up as much as one-eighth of world trade.[16] The Report indicates that the oil crisis has hit developing countries particularly hard,[17] and points out that "[t]he greatest dangers facing the world in the short and medium term are supply disruptions, consequential price surges, and incompatible national policies."[18] The Report urges increased financing of exploration for fossil fuels, development of new energy supplies in the Third World, sharing of the results of solar energy research with the poorer countries of the South, and creation of contingency plans to protect Third World countries in the event of acute scarcity.[19] Most importantly, the Brandt Commission strongly endorses a producer consumer accord as a necessary component in controlling the oil crisis.[20]

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13. *See* BRANDT COMMISSION REPORT, *supra* note 3.
14. *Id.* at 160-72.
15. *Id.* at 161-62.
16. *Id.* at 160.
17. The report states that "fishermen in poor island communities like the Maldives may not get oil at all to operate their boats, or farmers in India and Pakistan to work their irrigation pumps." Further, "it is no exaggeration to describe this as an emergency." *Id.*
18. *Id.* at 168.
19. *Id.* at 167-70.
20. The Brandt Commission Report elaborates:

> We believe it is both necessary and urgent to seek an understanding between producers and consumers on all internationally traded energy supplies. Such an understanding would comprehend the assurance of regular supplies of oil, more vigorous conservation, more predictable changes in oil prices, and the development of alternate energy resources . . . . To this end we propose a major global agreement . . . which would include an international energy strategy, action on finance to accomodate developing countries' general borrowing needs and to ensure the recyclying of surplus OPEC funds . . . .
>
> There must be an accomodation between oil-producing and consuming countries which can ensure more secure supplies, more vigorous conservation,

V. Policy Recommendations

All agree that the United States must continue its efforts to develop a powerful and coherent national energy program to reduce dependence on foreign oil. The best of domestic energy programs, however, cannot resolve the oil crisis without a vigorous and effective foreign policy component. The benefits of reducing American oil consumption might be offset by increased oil consumption in other nations, by OPEC production policies intended to keep prices high and rising, and by further crises in the Middle East which might dramatically reduce supply and increase price.

Neither the United States nor other nations can resolve their oil problems alone. The United States is the world's second largest producer and the largest importer of oil. Although its leadership has been questioned, the United States is still a principal leader of the free world and a military power capable of thinking and acting in global terms. Without Western support in general and United States support in particular, the security of Middle Eastern oil producers would drop dramatically. The United States is also a major trading partner of many OPEC nations, a major source of technology, and a substantial political actor within and outside the United Nations system. In short, the United States is in an effective leadership position and has the potential to mobilize substantial support for policies perceived as promising and helpful by the international community. As such, it is imperative that the United States begin a national dialogue on the foreign policy dimensions of the oil crisis with a

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> more predictable changes of prices and more positive measures to develop alternative sources of energy. This accommodaton is essential to arrest the slide towards economic disaster and to prepare for the inevitable transition to the new energy era.

About some of the more important specifies of this producer-consumer understanding, the Report explains:

> Oil-exporting countries, developing and industrialized, will assure levels of production and agree not to reduce supplies arbitrarily or suddenly unless the circumstances are beyond their control. Special arrangements will ensure that the poorest developing countries receive the amount of oil they need.
>
> All major energy-consuming countries will specifically commit themselves to agreed targets to hold down the consumption of oil and other energy . . . .
>
> Oil prices should be set in such a way as to avoid sudden major increases, and at levels which give incentives for production and encourage conservation [potentially including price indexation] . . . .

Id. at 279.

view to bold but solid new initiatives.

In furtherance of a beginning dialogue, the following actions should be taken. First, we should establish a high level National Security Council Interagency Task Force on the Oil Crisis, located within the Department of State and chaired by a person of Ambassador at Large rank. This task force could coordinate the United States foreign oil policy and mobilize the full resources of the government to deal with that policy. The Task Force would include Assistant Secretary level representatives of the State, Defense, Energy, Treasury, Justice, Office of Management and Budget, and other concerned departments and White House councils. It would work closely with the Congress and the concerned private sector. Its mission, subject to direction of the Secretary of State and the President, would be to develop and execute a broadly based foreign policy for enhanced stabilizaton of oil price and supply. Such a Task Force would provide a focus for developing the necessary policy.[21]

Second, this country should accelerate efforts at coordination of oil policy with the principal oil importing nations of the West using the already established mechanisms of IEA and the Economic Summit. The United States should continue efforts to maintain realistic country by country yearly import quotas—enforced by sanctions—and mechanisms to alleviate emergency oil shortfalls. Further progress on our domestic energy program and strategic oil reserve is crucial. The United States also should seek coordinated policies to accelerate development of oil supplies in non-OPEC developing countries as recommended by the Brandt Commission Report and encourage coordinated efforts to restore the rule of law in dealing with OPEC oil agreements.

Third, the United States should join with its NATO allies to produce a more useful "Carter doctrine" for meeting fundamental threats to oil supply stability in the Middle East. The resulting policy should not be unilateral. It must be subtle and flexible of modality just as it must be firm of purpose. It should consider that internal threats to friendly or neutral Middle East oil pro-

21. The NSC Interagency Task Force on the Law of the Sea, currently under the direction of Ambassador at Large Elliot Richardson, might provide one analogous organizational model. For a description of this law of the sea model, see O. ESKIN, LAW OF THE SEA AND THE MANAGEMENT OF MULTILATERAL DIPLOMACY (1978) (Center for Oceans Law & Policy, Series 1:5).

ducers may be as dangerous as external threats and that the effective policy must have the support of the nations to be protected. The United States also should take into account contingencies arising from further Arab-Israeli hostilities, deliberate embargoes, and intra-Arab and intra-regional conflicts that historically are more numerous than Arab-Israeli wars.[22]

Fourth, this country should promote more focused and realistic producer-consumer discussions on matters related to the oil crisis. Discussions that deal with the oil crisis as a part of a broader North-South super-agreement, such as those within the CIEC and now within the General Assembly global negotiations, seem highly unlikely to succeed. Moreover, they perpetuate a fraud that somehow OPEC is acting on behalf of developing countries and that more effective relief for developing countries from the severe strains of the oil crunch will result from global negotiations. The reality seems just the opposite. The most severe strain on developing countries today results from the oil crisis. A focused and limited set of negotiations with realistic hope of producer-consumer agreement on oil, including appropriate assistance for developing countries would be the best hope for the developing world. Focused negotiations also would reduce the increased political tension and heightened global instability which threaten world peace.

United States and Western leadership is crucial. Unless a strong and reasonable agenda and procedure for producer-consumer talks emerge, OPEC radicals will continue to successfully block a workable agreement. If a viable agenda could be developed that would benefit both developed and developing nations, OPEC radicals might be forced to succumb to international pressure.

For a producer-consumer dialogue to succeed, it must satisfy two important conditions. First, it must have a balanced and strictly limited agenda. Second, it must have United Nations endorsement, yet deviate from traditional, inadequate United Nations Conference or General Assembly procedures.

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22. Unlike the "Carter Doctrine," such coordinated statements of purpose and contingency plans should also reflect the underlying policies of The National Commitment Resolution of June 25, 1969, S. Res. 85, 91st Cong., 1st Sess., that a national commitment of the United States is strong and clearest when Congress and the President take affirmative action together. Indeed, the terms of this nonbinding Senate resolution are even stronger.

A. *Substance of Talks*

Substantively, the agenda should include an agreement by oil producers not to decrease production over yearly agreed levels as well as an agreement by developed oil importers on yearly oil import quotas to encourage conservation and substitution from imported oil. An agreement by both producers and consumers that the price of oil in export trade would not rise faster than one percent per annum above the inflation rate and that price increases would be imposed in even and regular semiannual or quarterly increments should be included as well. Mechanisms to assist developing countries in meeting their increasingly onerous oil debt, to encourage and guarantee productive investment of OPEC petrodollar surplus, to respond to sudden oil shortfalls through temporarily tighter import quotas, increased production and appropriate petroleum reserves, and to continue review are needed. Lastly, the agenda should include an agreement by developed oil importers to share solar and conservation technology with developing countries on favorable terms.

B. *Procedure of Talks*

Procedurally, these producer-consumer talks might be encouraged by formulation of an appropriate overall agenda and procedure by the new NSC task force after consultaton with domestic agencies, congressional committees, and the private sector. A domestic consensus is imperative. Producer-consumer talks would be encouraged by private discussions with OECD nations, including, for example, Japan, perhaps using the IEA or economic summit frameworks; OPEC moderates such as Saudi Arabia, Venezuela and Kuwait; principally affected non-OPEC countries, including Mexico and China; and, if necessary, the Soviets.

If an appropriate consensus emerges, it would help to seek an endorsement by ECOSOC of the agenda and procedure and a General Assembly endorsement of the approach. This initiative with the United Nations would need to be spearheaded by a broad coalition of OPEC, non-OPEC, and principal oil importing nations. The United States then should discuss an agreement in a limited forum—perhaps an ad hoc Committee of ECOSOC or another appropriate ad hoc group—composed of members of OPEC, major oil importing nations, other major oil producers, and the principal non-OPEC oil importing developing countries. It should aim for completion of this negotiation culminating in General Assembly endorsement within two years of its inception or about 1983 to 1984.

In view of the strong linkage in the General Assembly between oil and a full agenda of North-South issues, the United States might indicate that these procedures are not in lieu of global negotiations but that they are honestly and realistically targeted at controlling the most pressing and immediate oil emergency. Dealing with such emergencies is a central purpose of the United Nations system. If the system is unable to deal with such emergencies, it is unlikely that it can deal with a full range of North-South issues. Moreover, broad North-South talks are likely to be more productive if the conditions most responsible for the worldwide economic malaise are alleviated. This was one lesson of the CIEC failure.

These procedures will be more effective if the United States builds a background consensus instead of table thumping or making public "U.S. proposals," likely only to attract opposition. The West would need to stand firmly united on the importance of dealing promptly and realistically with the oil crisis.

Another important procedural issue is the question of Soviet participation in the talks. Arguing against such participation, some point out that the Soviets do not now import Middle East oil and will be less dependent on OPEC oil when they finally enter oil markets later in the decade. Thus, they might try to play a spoiling role. On the other hand, Soviet involvement may be more helpful than harmful.

Leaving the Soviets out is likely to trigger more intense Soviet opposition and to increase Soviet efforts to influence negatively certain radical OPEC nations. It seems unlikely that the influence could be more negative if the Soviets were included. Some form of United Nations endorsement would seem a prerequisite to effective political leverage. Soviet acquiescence would be helpful in obtaining an endorsement. The Soviets increasingly will be entering the world oil market. Thus, they will have an interest in more stable and moderate oil prices in light of their difficulties in acquiring scarce hard currency. The Soviets would be concerned about further instability in the Middle East and about conditions that could trigger Western military intervention in the region. The Soviet Union is still the world's largest oil producer and, in terms of stabilizing the oil crisis, Soviet acquiescence might have a stabilizing influence. The agreement would then cut East-West as well as North-South.

The United States and the Soviet Union have cooperated within the United Nations on issues of common interest such as the Law of the Sea negotiatons. Therefore, it probably would be best to involve the Soviets. Soviet intransigence, of course, should not be permitted to block an otherwise well-received approach.

Procedurally, United Nations endorsement in some form may well be a prerequisite to a successful approach. The politics of the approach must permit moderate OPEC and non-OPEC members to develop strong international community support for agreement. The United States cannot realistically expect support from OPEC moderates if they are isolated from other OPEC nations because of an agreement with the developed West. Similarly, there is substantial potential for a strong coalition of non-OPEC developing country leaders as well as leaders of developed nations. If a mechanism could be found to forge it, the coalition could exert considerable pressure on OPEC radicals. Those who have negotiated within the United Nations system understand its potential, despite its great frustrations, for developing political consensus. Common interest supports a reasonable oil agreement, and the full United Nations system may well be a better forum than the CIEC for isolating radical elements within OPEC. By not developing a viable initiative as an alternative, the United States concedes the forum to those extremists who would link oil issues with a full agenda of North-South issues. Incidentally, the United Nations Charter establishes strong obligations possibly useful in persuading others of the importance of a realistic procedure to deal with the oil crisis.[23] Conversely, a full General Assembly type negotiation with an endless agenda and more than 150 nations participating is an unrealistic approach given the oil crisis time frame. The United States must insist on realistic procedures and a realistic time table.

23. U.N. CHARTER arts. 55, 56. Note the current Soviet effort to solicit OECD countries to an understanding on security of Persian Gulf sea lanes.

C. *Prospects for Success of Talks*

In assessing the prospects for success of a reformulated producer-consumer dialogue on oil, the obstacles are great. Radical OPEC members probably would prefer unlimited price freedom and the ability to wield maximum coercive economic power for political aims. Moreover, the West has acquiesced to the linkage arrangement which would make productive talks nearly impossible. The global negotiations resolutions also would be used to argue against any initial effort at resolving an emergency oil crisis. On the other hand, the rapidly accelerating effects of the oil crisis on developing countries have begun to sensitize them to their own national interests which are fundamentally different from those of the OPEC radicals. OPEC radicals will have difficulty continuing to control non-OPEC importers through common rhetoric, since it is increasingly perceived that the rhetoric is false. Similarly, OPEC moderates, such as Saudi Arabia, are rightfully concerned about the increasing instability in the Middle East and in world financial markets. Both groups might join in a balanced approach if it became clear that the approach was pursued with determination and was sensitive to political realities.

Such an agreement could provide OPEC moderates with a stable and rising oil price indexed to inflation, more stringent developed country import quotas resulting in enhanced conservation, a more stable international climate for their investments, and a lower inflation rate. From the agreement, OPEC moderates would attain a mechanism for facilitating and guaranteeing productive foreign investment of petrodollar surplus, assistance for the non-OPEC debt crisis, and developing country oil emergency assistance that OPEC alone, without downstream production facilities, cannot provide. Most importantly, the agreement would increase internal and external stability in the Middle East combined with reduced risk of a major oil confrontation.

Developing country non-OPEC nations also would benefit. An agreement would provide them with mechanisms to assist in meeting their increasingly onerous oil debt and in responding to emergency oil shortfalls. The non-OPEC nations would profit from a more stable and gradual rise in oil prices with all of the economic benefits associated with stable price and supply. Finally, they would have a more realistic opportunity to pursue a range of North-South issues in a strengthened and more stable economic and political climate and an enhanced sharing in solar and conservation technology.

Developed Western nations would reap several advantages from such an agreement. They would enjoy increased stability in the price and supply of oil, enhanced contingency protection in the event of a sudden oil shortfall, more systematic intra-developed nation import share understandings, and enhanced financial stability as mechanisms are developed for dealing with the growing petrodollar surplus and developing country oil deficit problems. Additionally, the agreement would decrease the risk of Soviet military intervention in the Middle East in an oil crisis.

In the event of an agreement, the Soviet Union would find increased stability in the price and supply of oil as it enters the ranks of oil importing nations. Moreover, risk of Western military intervention in the Middle East in response to an uncontrollable oil crisis would decrease.

As a fifth foreign policy recommendation for dealing with the oil crisis, the United States should prevent embargoes in essential world commodities such as oil, and encourage the rule of law in commercial economic relationships. Although the provocation was great and the response deserved, it is not clear that the United States served its own best interests when it declared an embargo in wheat and seized Iranian assets in the United States. The United States might have served its interests better if it had stressed opposition to embargoes in fundamental commodities in world trade, particularly in oil and food, and stressed the importance of investment guaranties for foreign assets. Indeed, this country might want to examine new initiatives that could strengthen these principles.[24]

Finally, the United States should seek to coordinate our oil policy with those of Canada and Mexico, our continental neighbors, to strengthen mutually advantageous energy ties with them and with OPEC moderates. Such contacts have begun and the United States has sought regular bilateral contacts with moder-

24. This is not to argue that a strong and unequivocal United States response to the Afghanistan and Iranian outrages is inappropriate, but merely that other available options, including coordinated NATO (or an even broader Western grouping) action not involving a food embargo or freezing of assets would have been more appropriate given our own vital interests in oil and the strength of the "demonstration effect" in international politics.

ate OPEC members. This country should, however, be alert to further opportunities for strengthening energy ties with our immediate neighbors or OPEC moderates in mutually advantageous ways.[25]

VI. A Postscript on Oil and the Use of Force

The Brandt Commission Report pointed to the dangerous prospect of the use of force in the oil crisis:

> The political dangers arising from the energy situation are underlined by fears expressed in the media and elsewhere that force might in some circumstances be used by powerful countries to ensure the security of further oil supplies. Such intervention would put world peace in jeopardy; even talk of this increases political tensions and makes solutions more difficult—we need hardly stress how essential it is that such notions be utterly rejected and that the world's energy problems be solved by peaceful means.[26]

All agree that the world's oil problems should be solved by peaceful means. Force is tragic, wasteful, and, in the Middle East, potentially catastrophic. Nevertheless, the Brandt Commission Report may do a disservice to the goals it seeks to serve and inadvertently increase the risk of military confrontation. It does not candidly point out that the oil crisis is so serious that unless cooperative solutions can be found (and the international community is not now headed in that direction) the risk of forceful intervention in the Middle East will increase dramatically. This is not a normative statement but an empirical observation, and unless it is fully understood the seriousness of the current oil crisis may not be appreciated.[27] The stakes are enormous and the potential consequences of a sustained deliberate oil cutoff are draconian. In such an extreme setting, some gov-

25. The United States also should encourage early resolution of the Antarctic mineral resource talks in a manner that protects fair access of the United States to potential mineral resources of Antarctica, including possible offshore oil and gas. Antarctic resources, of course, whatever they maybe, are unlikely to make much impact in the current oil crisis. These negotiations, however, are taking place now and given the importance of access to oil and other minerals, fair access rights for the future should be protected.

26. Brandt Commission Report, *supra* note 3, at 170.

27. Recall that Secretary Kissinger, when in office, once indirectly adverted to the possibility of military action to break an oil embargo in potentially extreme circumstances.

ernments may consider the use of military force to open the oil fields in trust for the entire international community.[28]

Second, from a normative standpoint, the lawfulness of the use of force in response to a deliberate use of the oil weapon is in dispute.[29] For the Brandt Commission's statement to be most useful, it should have stressed that OPEC nations should not employ oil as a deliberate weapon. For if it is so used, it will invite the use of other weapons in response if the level of overall threat is sufficient to fundamentally threaten world peace or political integrity in violation of article 2(4) of the United Nations Charter.

The world is significantly more dependent on OPEC oil today than at the time of the first short and incomplete Arab oil embargo. OPEC now exercises greater control over downstream oil sales. Thus, the level of potential threat from a deliberate, massive, and sustained OPEC or OAPEC use of oil as a weapon is serious indeed.

CONCLUSION

Although OPEC is a principal contributor to the oil crunch, the developed nations also are responsible for wasteful energy use and must continue to seek more effective national energy policies. Belt tightening alone, without dealing with the foreign policy dimensions of the problem, however, neglects the submerged dimension of the oil crisis. In dealing with the foreign policy dimension, the United States should seek a reformulated cooperative dialogue to ensure orderly markets, import quotas, non-OPEC debt assistance, and mechanisms for encouraging productive reinvestment of OPEC surplus.

Despite its popularity as a slogan, "a bushel of wheat for a barrel of oil" is not the answer. Possibly a broad producer-consumer agreement will not be the answer either, although at this time it may be the most promising available alternative. Yet the

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28. Arguments by OPEC radicals of total destruction of the oil fields in the event of such military action seem no more plausible than exaggerated claims of the effects of strategic bombing on German oil production in World War II.

29. *See, e.g.*, Paust & Blaustein, *The Arab Oil Weapon—A Threat to International Peace*, 68 AM. J. INT'L L. 410 (1974) & Shihata, *Destination Embargo of Arab Oil: Its Legality Under International Law*, 68 AM. J. INT'L L. 591 (1974), *both reprinted in* THE ARAB-ISRAELI CONFLICT 391-458 (J. Moore ed. 1977). *See also A Symposium on the New International Economic Order*, 16 VA. J. INT'L L. 233 (1976).

West and even more broadly the community of nations, if acting together, is not without resources to deal with OPEC. Without cooperative leadership the ensuing serious economic and security disintegration may be more rapid and serious than generally appreciated. The oil crunch is the most drastic evidence to date of Margaret Mead's insight that the planet Earth has become a village of the whole. With all its economic and security implications, the oil crunch cannot be cured by the best national energy programs standing alone.