

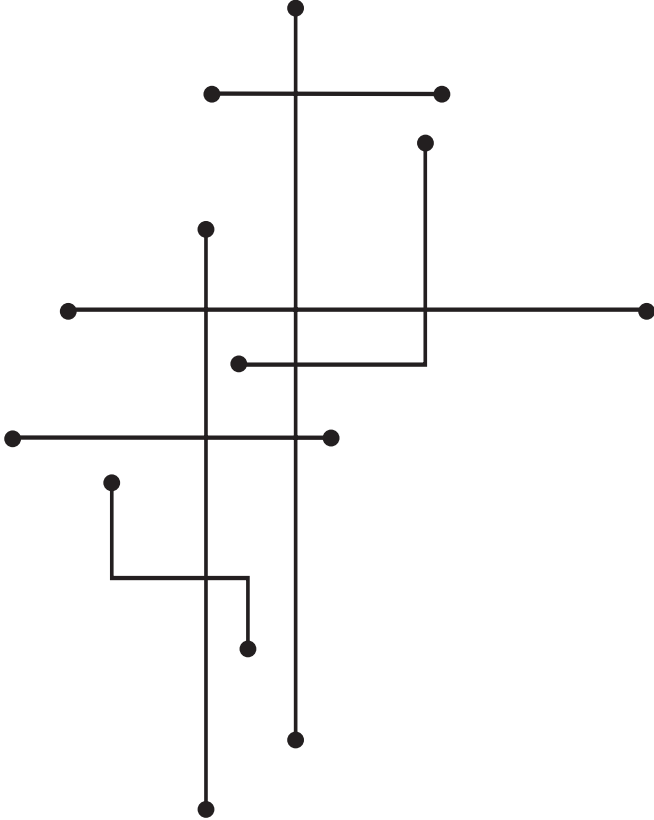
The United States and the United Nations Moving Forward

Report of the 45th Strategy for Peace Conference

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Convened at Airlie Center, Warrenton, Virginia

Preface



Strategy for Peace, the Stanley Foundation’s US foreign policy conference, annually assembles a panel of experts from inside and outside of government to assess specific policy issues and to recommend the future direction of these issues.

The 75 participants who met at Airlie Center in October 2004 were drawn together in three concurrent roundtable discussions to examine the current state of relations and to recommend elements of a strategy for peace. The following report on US-UN relations is the result of one of these discussions.

All sessions were informal and off the record. In preparing this document, the chair and rapporteur tried to convey points of consensus and disagreement. This report contains their interpretation of the proceedings and is not merely a descriptive, chronological account. With the exception of the “Summary of Discussion” at the end, the participants neither reviewed nor approved this report. Therefore, it should not be assumed that every participant subscribes to all recommendations, observations, and conclusions.

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The United States and the United Nations Moving Forward

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In October 2004, the Stanley Foundation convened a bipartisan group of American former officials, policy advocates, academics, and government officials—taking part in their personal capacity—to discuss the troubled relationship between the United States and the United Nations. The group explored how the world’s superpower and its premier intergovernmental institution can cooperate on common goals and how harmonizing their respective agendas could help make the international system more effective in guaranteeing international peace and security. A consensus crystallized around several points, which are listed in a summary at the end of this report.

An Agenda for Moving Forward

In November 2003, UN Secretary-General Kofi Annan established the High-level Panel on Threats, Challenges, and Change to evaluate threats to international peace and security, identify obstacles to collective action, and make recommendations to enhance the United Nations’ ability to address threats. In its December 2004 report the high-level panel highlighted six main contemporary threats: interstate war; intrastate violence; weapons of mass destruction (WMD); terrorism; organized crime; and socioeconomic threats, including poverty, infectious disease, and environmental degradation. Participants at the Stanley Foundation conference focused their discussion on three main sets of issues, each of which aligns closely with critically important US policy priorities: the use of force, proliferation of WMD, and terrorism. The group also

addressed some of the challenges that are key to a more effective partnership between the United States and the United Nations.

Reviewing the Rules for the Use of Force

Despite divergent views on the legality and legitimacy of the Iraq war, participants agreed that the standoff within the Security Council over Iraq has prompted an important debate in the international community on the rules and principles governing the resort to force. When is force appropriate? Who decides? What are the options if the Security Council cannot agree? Does—or should—Article 51 include preemptive, or even preventive, self-defense? The answers to these questions will require more debate with the international community. Nevertheless, participants discussed the following issues.

The Security Council Is a Key Source of Legitimacy. Participants differed regarding the necessity of Security Council authorization for the use of force, but all participants agreed that a unanimous resolution in the council represented *a*—and some argued *the*—key source of legitimacy for the use of force. The Security Council’s role as an arbiter of the use of force, however, is in question: UN member states have used force more than 200 times without Security Council authorization since 1945. And in the case of the United States, most participants (by no means all) agreed that the United States reserves the right to forcefully protect its vital national interest, even without Security Council authorization.

Aside from whether or not Security Council authorization is seen as *necessary*, participants viewed it as *desirable* because of the political and practical benefits it can provide. The Iraq war is the latest and clearest example of the costs of intervening without a clear Security Council mandate. Despite a series of unanimous Security Council resolutions on Iraq after the invasion, the United States, with minimal help from its coalition partners, shouldered the burden of providing the money and troops necessary to sustain the post-war effort. As one participant noted, the United States learned in Iraq that “When you go it alone, you clean up alone.”

Lack of collective resolve in the Security Council remains the most significant obstacle to effective action. One participant suggested that neither a discussion of new norms nor a restructured Security Council would do anything to address the absence of political will to take action when necessary. When the Security Council cannot act, most participants agreed that regional organizations or multilateral coalitions could respond forcefully and legitimately—if not legally—to threats.

Article 51 Can Include Preemption. The Iraq war sparked a debate about whether Article 51, the UN Charter’s self-defense clause, can be interpreted to include preemptive or even preventive self-defense. Most participants were willing to reinterpret Article 51 to include *preemptive* self-defense when it meets just war criteria, including imminence and last resort. However, they recognized that the traditional meaning of preemption (which implies an imminent threat) has become politically charged, particularly in the context of the 2002 National Security Strategy and the Iraq war. It will

be difficult to build an international consensus until political sensitivity gives way to a constructive debate and greater clarity on the distinction between preemptive and preventive war.

Prevention Is the Exception, Not the Rule. Participants disagreed about whether prevention should be allowed under Article 51. What are the threats that would warrant preventive action? What are the evidentiary standards? What precedent does prevention set and could it be misused by other states? The group found no definitive answers to these questions. One participant stressed the difficulty of outlining rules for procedures that are, by definition, exceptions: only some states even have the capacity to wage preventive war and the threats that might require its use are relatively few. Several participants suggested that, rather than focusing on an abstract question, any discussion of prevention should focus on the actual problems that might require a preventive response.

Participants cited two areas in which prevention may be necessary: weapons of mass destruction and terrorism. Whether and what principles should govern the preventive use of force in addressing these threats is a subject that is ripe for international dialogue, but too divisive now to be a constructive subject of formal intergovernmental discussion. The group agreed that the issue is better suited for informal discussion and can be taken to the United Nations for codification if and when a consensus emerges. There was some disagreement among participants over whether the United States would accept more rules on the use of force.

The Responsibility to Protect. Participants endorsed the 2002 International Commission on Intervention and State Sovereignty (ICISS), which asserted that individual states have a responsibility to protect their people from genocide and mass atrocities and that if states fail in this duty, the responsibility shifts to the international community, which should intervene.

The group identified areas where the United States and the United Nations could better enforce or expand this principle. Several participants noted that while the international community has learned to recognize genocide, it has not developed the capacity to respond. The group expressed a desire for the high-level panel to make recommendations addressing this gap. Another participant suggested that the ICISS report did not go far enough in binding the Security Council to act. The report included an escape clause: if the Security Council could not act, concerned states and regional organizations could act in its place. Real responsibility, he argued, is unavoidable. Finally, participants disagreed about whether to link the “Responsibility to Protect” with the more recently articulated “Duty to Prevent,”¹ a principle developed to get states to respond early, and collectively, to the threat of rogue regimes pursuing WMD.

Stopping the Spread of Weapons of Mass Destruction

Participants shared a sense of urgency over the threat of proliferation of WMD and agreed that the United Nations could do more to address this challenge. The United States, while actively

¹Anne-Marie Slaughter and Lee Feinstein, “A Duty to Prevent,” *Foreign Affairs*, January/February 2004.

developing its own nonproliferation strategy, has long sought a more effective partner in the United Nations, and welcomed the expected recommendations of the high-level panel in this area. As with the use of force, the lack of commitment on the part of many UN member states remains the most serious challenge to an effective, collective proliferation strategy. Participants focused on ways to overcome this weakness at the United Nations and, when necessary, to work around it.

The Current System Needs Help. The precise role of the Security Council in addressing proliferation is in question. Mechanisms exist, but few work, largely because individual state interests stand in the way. For instance, what would happen if the International Atomic Energy Agency actually referred Iran to the Security Council? Participants agreed that they did not know. Few believed the Security Council would be able to come together to make a statement or that the Security Council would agree on what enforcement mechanisms to use even if agreement were reached.

Participants agreed that the Nuclear Non-Proliferation Treaty has serious gaps. It allows states with civilian nuclear energy programs to get too close to weapons technology and know-how, and it fails to anticipate the potential threat of nonstate actors with nuclear technology. These flaws must be addressed.

Participants differed over whether the universal character of the current system and its equal treatment of all member states is appropriate or effective. One participant maintained that “North Korea isn’t Norway” and that the system would remain ineffectual unless problem states were identified early and treated differently. Another disagreed, arguing that universality is essential and that a two-tiered system is both unsustainable and a “recipe for international discord.”

What the United Nations Can Do. One area in which the United Nations can play an important role is in establishing the norm. The United Nations can be the clearinghouse where states develop and implement norms and where states, as one participant said, can convince other states to come “on board.” The Security Council has a unique role to play. Security Council Resolution 1540, for example, focused international attention on one key gap: the threat posed by nonstate actors with WMD.

The United Nations is also uniquely positioned to establish a global health monitoring system that would track infectious diseases and detect irregularities that might point to biological or chemical attack. Such a system could link to the Security Council.

Other Multilateral Approaches Are Needed. Even if the United Nations does become more effective in dealing with WMD proliferation, there will still be a need for bilateral and ad hoc cooperation. The United States, for instance, led a group of 11 countries in forming the Proliferation Security Initiative (PSI), designed to interdict suspect cargo on the high seas. Participants discussed the inadvisability of the United Nations appropriating the PSI because the PSI, as the Bush

administration points out, is an activity, not a regime. That said, the PSI is compliant with and complementary to existing regimes. Any state can participate at whatever level it likes and there is no restriction forbidding—or obligation requiring—it to report on its PSI efforts in UN bodies.

Early Pressure Matters. Members of the group were of the opinion that governments should agree early to identify and put pressure on would-be proliferators. The earlier that consensus is reached on problem states and programs, the more options exist for preventing the development, acquisition, and use of WMD. Early collective agreement on mechanisms to put pressure on proliferators might prevent the need for the use of force, or if force ultimately proves necessary, it might build greater international support.

Participants unanimously expressed deep concern about the state of UN sanctions, particularly in light of the oil-for-food scandal. The group agreed that sanctions will remain the preferable enforcement mechanism against proliferators, and called on the United Nations and its member states to evaluate the problems of sanctions and to make them more effective. Other intergovernmental bodies, including the international financial institutions, should be considered to augment the monitoring of sanctions regimes.

If all else fails, participants agreed that the use of force must remain an option for preventing proliferation. Participants agreed that it should be reserved as a last resort and that evidentiary and imminence criteria be set high. The group stressed its desire for informal discussions on rules to govern the preventive use of force against proliferators.

Countering Terrorism

It was expected that the high-level panel would make recommendations regarding the role of the United Nations in addressing the challenge of global terrorism. These recommendations are welcome; the United States wants the United Nations to do more. The UN may fear that becoming a more visible counterterrorism partner increases the risk that it will become a target of terrorist activity. But this attitude, while understandable, is counterproductive. The very mission of the United Nations is at odds with the aims of terrorism. Participants discussed ways that the UN might become a better partner in counterterrorism efforts.

A Comprehensive Counterterrorism Strategy. Effective counterterrorism efforts require close cooperation among governments, but too many states feel that the current “global war on terrorism” is a purely American enterprise and are hesitant about getting deeply involved. Conversely, many Americans are unclear about whether the United States can find much help at the United Nations on terrorism. The United Nations can address this gap by developing a comprehensive counterterrorism strategy.

Participants noted the important role of the secretary-general, who spoke out forcefully against terrorism immediately after 9/11 but has not highlighted it as a consistent theme. One participant

suggested that a clear message from the secretary-general on the global reach of terrorism and the need for a global effort to address it would be immensely useful. Another participant recommended that the United Nations develop a white paper on its counterterrorism strategy.

The United Nations' counterterrorism strategy should emphasize education, human rights, and rule of law, in addition to the use of force. Although research on terrorism's "root causes" is weak, there is a strong link between occurrence of terrorist activity and undemocratic states lacking the rule of law. Participants welcome the United Nations' recognition of this link.

Defining Terrorism. Previous attempts to define *terrorism* in the General Assembly have proved unsuccessful and controversial, but until there is an agreement on a definition and all forms of terrorist activity are delegitimized, it will be difficult to establish universal norms and responsibilities for states. Security Council Resolution 1566 is useful, but it may not go far enough.

Use Existing Instruments. States should sign up to existing international terrorism instruments. There are 12 agreements covering terrorism, and most member states have yet to ratify all or even most of them. There is also a terrorism prevention branch in Vienna that can help build state capacity to meet its obligations, but few states take advantage of it.

Improving the Counterterrorism Committee. While the Counterterrorism Committee (CTC) is an important mechanism for intergovernmental coordination, it has several flaws. Most significantly, it lacks a mechanism to deal with states that fail to fulfill their obligations under Resolution 1373. This is a gap that must be filled. Additionally, there has been insufficient attention to what comes after states meet the initial requirements. For example, all UN member states submitted reports to the CTC, but many missed the deadline for submitting follow-up reports. One participant recommended making operational an executive directorate for the CTC as a motor to spur states to follow through. Another suggested that the United Nations focus on building capacity within states to meet their counterterrorism obligations.

Overcoming Challenges to an Effective Partnership

In the areas of use of force, proliferation, and terrorism, participants identified prospects for enhanced cooperation between the United States and the United Nations. However, serious obstacles to effective partnership remain.

The North-South Divide. The high-level panel's six baskets of issues highlight the difference in threat perception between the developed North and the developing South. These perceived differences can be a stumbling block to collective action.

Participants advocated a shift in thinking away from a grand bargain between North and South toward an agreement that threats to one state are threats to all. As one participant noted, there is no sacrifice—only benefits—for a state that prevents terrorism from taking root within its territory or that prevents its neighbor from acquiring weapons of mass destruction. On the other hand,

it is in the interest of the United States to prevent the conditions—like poverty and poor governance—that can weaken state capacity. There is a growing appreciation in the United States that weak and failing states now pose a greater threat than conquering ones and with that appreciation grows an understanding that democracy promotion and poverty reduction, based on the Monterrey Consensus, are important. Repackaging the threats as universal is an imperative precursor to collective action. Some participants, though, stressed that industrialized powers will need to demonstrate commitment to the needs of the Global South to ensure that governments of developing countries join in the effort to revitalize the United Nations.

The North-North Divide. Perhaps no partnership is more important to the success of the United Nations than that between the United States and Europe. When the United States and Europe work together at the UN, they are unstoppable. When they do not, the United Nations stands still. Unfortunately, the United States and Europe have vastly different perceptions of the threats posed by terrorism, proliferation, and human rights violations and have vastly different means of addressing them. These differences must be addressed and, if possible, overcome.

The United Nations' Structural Challenges. Problems in the leadership and membership-selection process of certain UN councils and committees undermine the work of the United Nations and distract public attention from the positive role the UN can play. The antiquated structure in the United Nations that groups member states into regional and economic caucuses perpetuates the United Nations' dysfunctional politics. Several participants endorsed the creation of a democracy caucus that would allow the United Nations' democracies to cut down on some of the obstructionist bloc voting.

The Human Rights Commission. Participants were deeply concerned about the politicization of the Human Rights Commission. States like Cuba, Sudan, and Libya view membership on the commission as a way to shield themselves from criticism for violating the principles they are meant to uphold. Participants made a series of recommendations to address problems of the commission, including:

- Member states should develop criteria for membership on the Human Rights Commission, including a close examination of the human rights records of prospective member states.
- The United Nations should stress the importance of the independent role of the UN High Commissioner for Human Rights, in its Secretariat role, to promote transparency, access for civil society, and defense of human rights norms.
- The United States should work as hard at advancing its interests within the commission as Cuba and other obstructionists work at advancing theirs. As one participant noted, “When we put on the full-court press, we can win 80 percent of the time.”

Conclusion

Despite the rocky relationship between the United States and the United Nations in the past few years, participants agreed that the United Nations can be a valuable partner in addressing today's most serious threats. Participants would welcome a greater UN effort to address proliferation and terrorism and look forward to a discussion, outside the United Nations initially but eventually inside it, on the rules that might apply to the use of force. While challenges to effective UN partnership remain, participants agreed on the need to build on the United Nations' successes and honestly address its shortcomings. Renewed attention to the US-UN partnership can advance the common cause of international peace and security.

Summary of Discussion

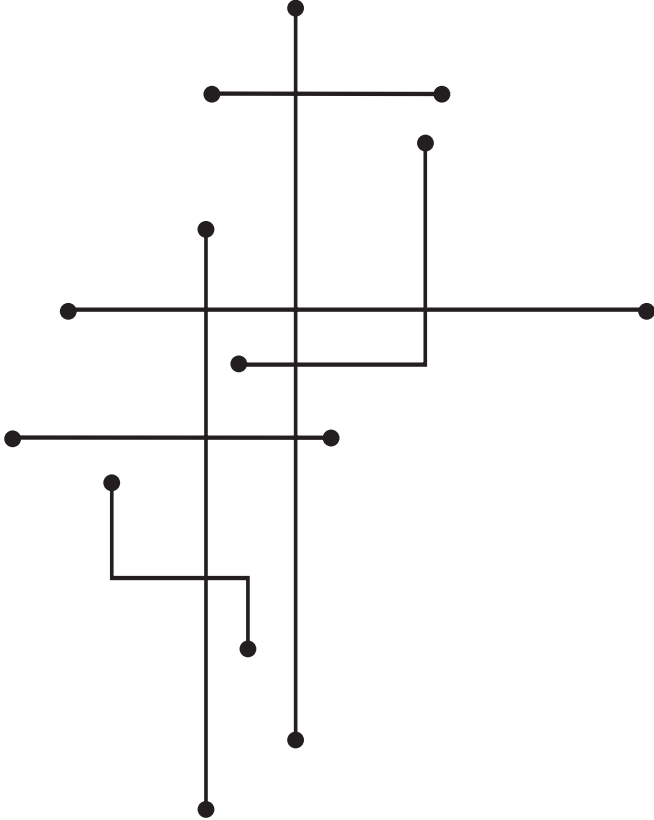
Participants summarized their discussion with the following points of consensus—with disagreements noted—though some members of the group had departed before the final version was presented. The group recognized that the United States has an abiding interest in strengthening the UN system so that it is better able to enhance international cooperation on a range of issues on which US national interests coincide with those of other member states. This will require significant change in the way the world body goes about its work, as well as a renewed commitment on the part of the United States to fulfill the founding principles and purposes enunciated in the UN Charter. While much of the group's discussion focused on the security matters of particular interest to the United States—given growing concern about terrorism, failed states, and the proliferation of WMD—the participants stressed as well that American national interests extend across the whole spectrum of UN activities.

It should be stressed that while US officials took part in our discussions, they did so strictly in their personal capacities.

- The Security Council is a key source of political legitimacy, even for a dominant superpower. Although participants differed over the necessity of Security Council approval for the use of force, all agree it is desirable because it can provide legitimacy and generate international and domestic support and potential resources.
- The Non-Proliferation Treaty (NPT) regime as it currently stands has two glaring gaps that must be filled. Under the treaty, it is possible for signatory states to use civilian nuclear programs—which are encouraged by the NPT—to develop technologies that could be used for weapons; countries can thus be in accord with the letter of the law, while subverting its purpose. The treaty also failed to anticipate the potential threats posed by nonstate actors. For the former, participants discussed the idea of a guaranteed and internationally controlled source of civilian nuclear fuel as well as a ban on fissile material. They also focused on the problem of aiming for a universal norm, yet resorting to differential treatment when it comes down to specific cases.

- Governments should develop a consensus on mechanisms to bring early pressure on would-be proliferators. Such timely collective action could prevent the need to use force and would help build greater support if force proves necessary. While this process may lead to a set of understood or explicit norms, the issue will require much informal debate before it can be brought formally to the United Nations.
- The United Nations should help develop a comprehensive counterterrorism strategy to broaden the sense of ownership of the global struggle against terrorism. Meanwhile, member states should fulfill existing obligations. The counterterrorism and Al Qaeda sanctions committees should be strengthened. All of these should be done in accordance with fundamental human rights.
- Participants are deeply concerned by the politicization of the Human Rights Commission, in particular the efforts of some member governments to prevent commission scrutiny of abuses. Through public advocacy and private efforts, the secretary-general should urge UN member states to ensure that the human rights record of governments plays a key role in decisions on membership in the commission. Participants also said the UN High Commissioner for Human Rights should, in its Secretariat role, promote transparency, access for civil society, and defense of human rights norms more broadly.
- The group endorsed the development of a democracy caucus to enhance and improve the bloc system in the United Nations.
- Participants welcomed the development of a concept of the responsibility of governments to protect their citizens from gross violations of human rights. State sovereignty should not be a bar to intervention by members of the international community to stem mass killings or displacement when the state itself is unwilling or unable to act.
- The High-level Panel on Threats, Challenges, and Change is expected to stress that the threats of interstate and intrastate war, criminal and terrorist networks, and poverty and underdevelopment all undermine international peace and security. While UN member states have differing priorities regarding these threats, they share an interest in addressing all of them. The challenge in the run-up to the 60th Anniversary General Assembly will be to strengthen governments' commitment to address threats that are the priorities of others. This will include a redoubled commitment of the industrialized powers, in partnership with the developing world, to poverty reduction, good governance, and the promotion of democracy.

Participants



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The Stanley Foundation

The Stanley Foundation, a nonpartisan, private operating foundation, is focused on promoting and building support for principled multilateralism in addressing international issues. The foundation is attracted to the role that international collaboration and cooperation, reliance on the rule of law, international organizations, cooperative and collective security, and responsible global citizenship can play in creating a more peaceful and secure world.

Consistent with its vision of a secure peace with freedom and justice, the foundation encourages public understanding, constructive dialogue, and cooperative action on critical international issues. Its work recognizes the essential roles of both the policy community and the broader public in building sustainable peace.

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