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The Academic Council on the United Nations System

NEW FRONTIERS OF MULTILATERALISM

by
J. ALAN BEESLEY

The John W. Holmes Memorial Lecture

Reports and Papers
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The John W. Holmes Memorial Lecture Series

The Academic Council on the United Nations System inaugurated the John W. Holmes Memorial Lecture Series in 1989 in honor of a founding member of the Council. Mr. Holmes had served on the planning committee for the founding conference of ACUNS and the provisional committee in 1987-88. The talk he prepared for the first ACUNS annual meeting in 1988, *Looking Backwards and Forwards*, was the first publication in the Council's series of Reports and Papers.

Reports and Papers are published and distributed by the Academic Council on the United Nations System as part of its program to expand our understanding of the problems of international cooperation and the role of international institutions. The individual authors, however, remain responsible for the content of the work that is presented.

John Holmes joined the Canadian Department of External Affairs in 1943 and participated in the planning of the United Nations. He attended the Preparatory Commission in 1945 and the first session of the General Assembly and later served as head of UN Affairs in Ottawa and as Under Secretary of the Department of External Affairs. In 1960, he left public service for a second career in teaching and scholarship, basing himself at the Canadian Institute of International Affairs and the University of Toronto.

Mr. Holmes brought to the Academic Council a lifetime of experience and reflection on international politics and the role of the United Nations. He also brought a marvelous mix of idealism and realism, a mix that showed up clearly in the paper, *Looking Backwards and Forwards*. In the conclusion, he spoke of the need for reexamining the role of the UN in a way that captures the basic purposes of the Academic Council. "It is an ideal time," he said, "to launch in all our countries that renewed examination of past experience of the UN, to discover on what we can build and where not to venture, how we can use the growing threat to the globe itself to create the will for international self-discipline which is what international institutions are all about."

The Academic Council will miss John Holmes. This lecture series in his honor is but one way of remembering the wisdom of his advice and the warmth of his friendship.

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ABOUT THE AUTHOR

J. Alan Beesley is the Special Adviser on Environmental Affairs to the Secretary of State for External Affairs of Canada. Mr. Beesley received his legal degree from the University of British Columbia (B.A. and LL.B.) and practiced as a lawyer for five years before joining the Department of External Affairs in 1956. He has served abroad in Tel Aviv and Geneva, and as Ambassador to Austria and concurrently as Permanent Representative to the International Atomic Energy Agency and the United Nations Industrial Development Organization from 1973 to 1976; as High Commissioner to Australia with concurrent accreditation to Papua, New Guinea, Solomon Islands and Vanuatu from 1977 to 1980; as Ambassador in New York to the United Nations Law of the Sea Conference from 1980 to 1982; as Ambassador for Disarmament and Head of the Delegation to the United Nations Seabed Preparatory Commission in New York from 1982 to 1983; and as Ambassador in Geneva and Permanent Representative to the Office of the United Nations, to the Conference on Disarmament and to the Secretariat of the General Agreement on Tariffs and Trade from 1983 to 1987.

In Ottawa, he was Director General of the Legal and Consular Bureau and later Assistant Under Secretary and was twice Departmental Legal Adviser. In 1973, in addition to his other duties, he was appointed Special Adviser to the Secretary of State for External Affairs on the Law of the Sea as well as leader of Canada's Law of the Sea Delegation. He has been a University Visitor at the University of British Columbia (Law School) since 1987. Mr. Beesley was appointed Queen's Counsel in 1974; received the Prime Minister's Outstanding Achievement Award of the Public Service in 1983; and was elected to the International Law Commission in 1986. One of Canada's most distinguished diplomats, the Academic Council was honored that he agreed to offer the first John W. Holmes Memorial Lecture at the ACUNS annual meeting in Ottawa on June 16, 1989.

NEW FRONTIERS OF MULTILATERALISM

Introduction

It is with a feeling much more akin to humility than pride that I appear before this distinguished audience to present the John Holmes Memorial Lecture. During the thirty-three years I knew and revered John Holmes, he influenced me far more than he knew, and I am still learning from his speeches and writings, including the paper he wrote as the first of this series. He is not just a tough act to follow, but an impossible one. I am well aware that my comments and observations today cannot possibly do justice to his memory.

I still recall with warmth and appreciation my first encounter with John Holmes. It was 1956, and he was Assistant Under-Secretary, while I was a newly recruited junior foreign service officer. I had produced a memorandum on Dutch New Guinea, referred to by Indonesia as West Irian. I was encouraged by some senior officers to submit the proposal to the Director of the Division, a much respected diplomat. I shall never forget his marginal comment on the memorandum. It said "This is like a bride's first stew - interesting, but not fit for man or beast".

I studied those words for some time in order to discern some subtle form of approval, but without success. Nonetheless, my director submitted the paper to John Holmes, who reacted positively to it. To this day, I recall his kindly supportive attitude, his open-mindedness, his unassuming and unpretentious manner, his quick mind, his breadth of experience and depth of wisdom, and his wonderful sense of humor. He would chat casually and informally with his colleagues of all ranks, and we all benefited from the exchange. He, of course, would have said that he did too, and perhaps this was so, for he remained young at heart and mind throughout his life. He was always a student as much as a teacher, and thus one of the least hierarchical men I have ever known.

The subject of my address, "New Frontiers of Multilateralism" could have been selected by John Holmes, since it typifies so much his personal approach. It is also one which interests me greatly, and I will thus offer, for what they are worth, my personal views, which are not necessarily those of the Department of External Affairs or the Government of Canada. In the face of that potentially alarming statement, I can at least reassure this group of experts on the UN system that I will try not to feed you a luncheon diet of the UN alphabet soup.

My underlying thesis is as follows: first, that for good or ill, international society is founded on the concept of the nation-state, and it is dangerously illusory to regard the UN as an existing or nascent system of world government; second, that even the rudimentary security system envisaged by the Charter has not yet been implemented in practice; third, that no system of national law has been able to prevent outbreaks of violence, in spite of sophisticated legal superstructures and penal systems, and it is ever more difficult to constrain the use of force on the international plane, given the relatively primitive stage of development of international society; fourth, that it is in the long term self-interest of every state to adhere to the rule of law, hence the widespread and rapidly expanding network of treaties and other instruments regulating relations among states which states do tend to observe in practice, as states do not take these treaty commitments lightly; fifth, that, contrary to expectations after both the first and second World Wars, international society will not develop into a peaceable international community by settling first the use of force, but will progress towards that goal by effectively regulating, by consent, usually through multilateral treaties, so many fields of conduct that there will be less and less reason to resort to force and thus less resistance to the gradual acceptance of real constraints upon its use; and sixth, that contemporary multilateralism is both reflecting and influencing thinking in the direction of global interdependence, particularly in the field of environment and resource related activities which threaten the continued existence of the planetary ecological system.

While the first five arguments or theses were outlined in a Leonard Breacon Memorial Lecture which I gave in 1973 in Toronto (on *War, Peace and Law in a Divided World*), to which

John Holmes later had the kindness to refer favorably in a magazine article in 1975, the last point, which directly relates to the new frontiers of multilateralism, had not yet crystallized in my own mind at this time, although it may well have been a part of the thinking of John Holmes and some members of this audience.

From War and Peace to Global Security

No one seriously interested in international relations can fail to be impressed by the accelerating pace, enhanced vigor and increasing scope of multilateralism. It is symptomatic that the UN system is back in fashion. The Security Council and the Secretary-General are engaged in peace-making efforts, with varying degrees of success, on a whole range of so-called regional conflicts, including Afghanistan, Namibia, Central America, the Gulf and the Middle East. Such war and peace issues are, of course, as old as multilateralism itself. At no time in history has it been so evident, however, that the UN system is an instrumentality and not a world government, nor one which can do very much more than serve as catalyst, a focus of world opinion, a sounding board, and a mechanism for developing and implementing agreement. In other words, it can do only as much as its member states are prepared to let it do. It can, however, serve a crucial evolutionary and educational function, whether governments intend it or not, even on classical security issues, by encouraging, enhancing, developing and intensifying the process of international cooperation, referred to by John Holmes as the "habit of cooperation". There are signs that the UN is beginning to play all of these roles, in large part, no doubt, as a consequence of the improvement of east-west relations.

As John Holmes pointed out in 1975 in the article previously referred to:

The Cold War provided the mindless left and right with their points of reference, the one sure indication of goodness and badness. A UN no longer dominated by the Cold War or even detente is hard for them to cope with.

Perhaps we are moving away from such attitudes as we tentatively approach the new frontiers of multilateralism; the world may be progressing, however slowly, from independence to interdependence. It is, perhaps, indicative that Switzerland, a neutral state which had recently voted against joining the UN, is not only continuing to make its unique contribution to world peace through the International Committee of the Red Cross, but is now actively participating in the Namibian peace-making exercise. Thus, we may even be in the process of developing fresh approaches to issues of "war, peace and territorial settlement", the long-standing preoccupations of traditional multilateralism.

It behooves us to recall at the same time, that there are early examples of what we now tend to refer to as the new "functional" multilateralism. The Congress of Vienna which occurred, after all, in 1815, condemned the slave trade. As long ago as 1865 the International Telecommunications Union was founded. By 1875, the Universal Postal Union had been established. It is commonplace that multilateralism has long since expanded its reach beyond its traditional concerns with war, peace, territorial disputes and diplomatic relations. What then is new in contemporary multilateralism?

In 1975, one hundred years after the founding of the Universal Postal Union, John Holmes suggested that some of the forthcoming issues for the UN were "food, population, pollution, the seas and outer space". As usual, he was "looking forward as well as backward". I submit that in grappling with these and other global issues, multilateralism has been catapulted into a maze of new conceptual approaches going far beyond what the world had ever known before. I give a few examples taken from my own experience.

From State Sovereignty to the Global Commons

Last month, in Geneva, a newspaper cartoon was circulated during a meeting of the Intergovernmental Panel on Climate Change, (known as the IPCC). The cartoon portrays two middle aged diplomats exchanging views, as we like to call it, at a reception. One is saying to the other, "Do you remember when we used to talk about the weather to make conversation?"

For the benefit of those who do not dine daily on the UN alphabet soup, the IPCC is a multidisciplinary panel of experts established less than a year ago under the joint auspices of the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP). Its mandate is a challenging one: to study and analyze the phenomena relating to potential climate change, and to develop within a given time frame strategies to deal with them. Thus the IPCC, a little known institution, is at the cutting edge of new frontiers in multilateralism.

It may seem anomalous, but to me it is entirely appropriate, that a UN specialized agency which had its origin in the International Meteorological Organization, founded in 1873, should be collaborating on such vital issues as global climate change with a UN entity established almost exactly one hundred years later, in 1972. Surely we must marshal the specialized experience of the past with the fresh insights of a newly created multidisciplinary institution even to comprehend, yet alone attempt to cope with the far-reaching implications of climate change. So much for the famous phrase of Will Rogers, borrowed from Charles Dudley Warner, "Everyone talks about the weather, but no one ever does anything about it".

Even lawyers, not always known for innovation, are attempting to contribute to the solution rather than the problem. A legal working group on a Climate Change Convention, co-chaired by Canada, was set up in April this year in The Hague as part of the preparatory process for a Ministerial Conference on Atmospheric Pollution and Climate Change this fall. In May, a parallel legal working group was established by the UNEP Governing Council to carry out preparatory work for a Climate Change Convention, in close collaboration with the IPCC, which has just last month set up a separate legal working group on the matter, (also co-chaired by Canada). For those who consider that overlapping and duplication is the stuff of life of the UN, I can only say: not if I can help it. Interestingly, in tandem with these very recent developments, the International Law Commission has been engaged for fourteen years in work on a topic which some consider to be largely co-terminus with environmental law, while others say there is no such law to codify and no legal basis for developing it. The topic, entitled

"International Liability for Injurious Consequences Arising out of Acts not Prohibited by International Law", has now begun to take concrete form as the Commission begins to show its awareness of worldwide concern over environmental and ecological issues.

I must confess that when I meet with my colleagues from a variety of disciplines in the IPCC, I myself feel as disorientated as when I participated over twenty years ago in the negotiations in the Outer Space Committee on the original Outer Space Convention of 1965. I remember feeling at that time a conscious need to stretch my mind to encompass the new conceptual approaches required to enable us to think our way into the problems of an environment wholly new to mankind. I think I probably felt that if man had been meant to be in orbit, he would have been born there. I have had the privilege to be involved in each of these particular examples of new frontiers of multilateralism, which is presumably why I am here.

The Emergence of Holistic Approaches

It is tempting to forgive ourselves for not having acted sooner on newly emerging problems such as global warming and ozone layer depletion. Consider, however, the language of Recommendation 70 of the Stockholm Action Plan of 1972 which recommends that governments:

- (A) Carefully evaluate the likelihood and magnitude of climatic effects and disseminate their findings to the maximum extent feasible before embarking on such activities:
- (B) Consult fully other interested states when activities carrying a significant risk of such effects are being contemplated or implemented.

Consider also the provisions of the 1975 Agreement between the United States and Canada relating to the Exchange of Information on Weather Modification Activities, which recognizes "the desirability of the development of international law relating to weather modification activities having transboundary effects."

Consider also the provisions of the 1976 Convention on Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques. As pointed out by Jan Schneider in her seminal treatise, *World Public Order of the Environment*, "in light of emerging ecological interdependence, it must be expressly understood to follow that states have the responsibility to ensure that activities within their jurisdiction or control do not cause significant weather alterations in other states or do detriment to common atmospheric or climatic conditions." That was written in 1972 and published in 1973. Has everyone been out to lunch ever since (perhaps on UN alphabet soup, mistaking the letter for the law)? Before we get too discouraged, let us recall that the 1909 Canada-U.S.A. Boundary Waters Treaty not only prescribed that the two countries would not pollute their boundary waters, but set up the innovative and imaginative institution of the International Joint Commission to assist in implementing its provisions. It is well known that, in recent years, in spite of this early example of a well-founded legal strategy, things were reaching the point where Americans and Canadians would soon be walking on water, and not merely in the frozen North.

In spite of the foregoing, it is worthwhile to look at the Environmental Modification Agreement with a kind of double vision, for it was both an anticipatory arms control agreement and a future oriented environmental protection agreement. So too with the Partial Test Ban Agreement, the negotiation of which owed so much to the then Canadian Minister of External Affairs, the Honorable Howard Green. While many to this day regard the Agreement as merely an imperfect arms control agreement, which it is, I cannot help seeing it as a "forerunner" environmental agreement. Does anyone today doubt the unacceptability of atmosphere atomic tests? Yet just a few short years ago, it was necessary to have the issue raised in the International Court of Justice in order to have such tests cease. The point I wish to emphasize is that even in fields as seemingly disparate as arms control and ecology, there is a symbiotic linkage, and thus the beginning of recognition of the need for an holistic approach. When one takes into account the law-making nature of the treaties mentioned, and the utilization of the international judicial process in one case, it is difficult to be unashamedly cynical about the multilateral process. That we

have not gone far enough is self-evident. That we have begun is encouraging. That the motivation is not merely enlightened self interest but a growing recognition of the interdependence of states and the increasing interlinkage of global issues is both challenging and reassuring.

A clear indication of the gradual emergence of a broader conceptual approach to global issues is the creation of new terminology, such as "global environmental security", since semantics are important in a world locked into a global communications network. We have even witnessed in recent months a lofty and, perhaps, for the time being, utopian attempt to establish a supra-national agency to oversee the protection and preservation of the atmosphere, with powers to impose sanctions and to refer disputes to the International Court of Justice. That the proposal was watered down before it was accepted is not so interesting as that it was made, seriously and in good faith, by important states operating at a high level of government.

The Hallmarks of the New Frontiers in Multilateralism

If the few examples I have referred to can be taken as indicative or at least suggestive of the extension of the reach of contemporary multilateralism towards new horizons, from independence to interdependence, from a law based on sovereignty towards law recognizing large areas of the planet as global commons, and from a piece-meal fly-swatter technique to the beginnings of a holistic approach, what else can we discern as hallmarks of new frontiers in multilateralism?

To cite only one example, how many of us would have foreseen a decade ago, or even five years ago, the linkage of catastrophic debt problems of developing countries with the preservation of the global ecological system? If Bolivia provides an existing example, Brazil is showing signs of recognition of the need to set an example, on problems involving both the "lungs of the planet" and the biological diversity which could be lost if these "lungs" are drained of their life-giving oxygen-generating capacity. Surely this is a new kind of multilateralism, which would press back the frontiers in ways never before contemplated, even in the days of heated controversy during the Stockholm

Environmental Conference. (Perhaps we could write a chapter entitled "From Additivity to Conditionality"). It seems justifiable, however, to conclude, albeit with caution, that the growing recognition of the linkage of questions previously regarded as discrete is another hallmark of the new frontiers.

What other indications are there of new frontiers in multilateralism? The very term embraces a multitude of sinners, and it is appropriate, perhaps, to consider the peaceful settlement of disputes as a benchmark. It must be admitted at the outset that there is not such a huge backlog of cases awaiting hearing by the International Court of Justice that states are clamoring to be allowed in. Nonetheless, we are seeing something new. Canada and the United States led the way by using the Chambers procedure of the Court – a panel of judges from the Court plus one each from the opposing states – in the *Gulf of Maine case*. Mali and Burkina Faso (formerly Upper Volta) followed suit. Then came El Salvador and Honduras, in a case concerning the Land Island and Maritime Frontier dispute. More recently, the U.S.A. and Italy agreed to submit an investment dispute to the ICJ Chambers in a case concerning *Electronic Sicula, S.P.C. (Elec.)* Not exactly a thundering herd, but a sign of something new leading perhaps to the more frequent and effective use of the Court. Of particular interest also are the far-reaching proposals of the USSR concerning greater use of the Court, whatever one's views may be on the likelihood of their acceptance. However cynical one may choose to be, the process of peaceful settlement seems to be receiving a transfusion just when it might have been expected to be receiving extreme unction, as innovative proposals are floated and new means of settling disputes are utilized.

International courts other than the International Court of Justice are also showing signs of pressing back the multilateral frontiers. It is an indication of how far multilateralism has progressed in Europe that the European Court of Justice of the EEC tends to be regarded as if it were a "mere regional tribunal". Would anyone have so regarded it between the two World Wars? It is said that the Court does not only play a role in resolving the Community's "federalism" conflicts, but at least one author has analyzed its law and policy making role and concluded that it is truly significant. A British Airways executive suggested as much

in commenting on the recent ruling of the European Court of Justice aimed at speeding up airline deregulation. If such developments are no longer so new, it is nonetheless a sensitive frontier which is under multilateral pressure.

Another unusual kind of multilateralism, constituting an innovation in the very process with potentially far reaching political and legal implications, is the growing role of non-governmental organizations both within and outside the UN system. Examples abound in the fields of human rights, arms control, the environment, development, refugees, and Law of the Sea. Amongst recent examples, in January of this year many U.S. non-governmental organizations (NGOs) were present as observers at the first meetings in Washington of one of the Working Groups of the IPCC. Non-governmental organizations made interventions at the Basle Conference on the Transportation of Hazardous Wastes in April. They intervened on a wide range of other environmental issues in May during the Governing Council of UNEP. The most dramatic example of what NGOs can achieve is probably the attention they were able to focus on the Ethiopian drought. Of at least equal important, however, is the hard work these NGOs do on development and medical problems in incredibly difficult conditions. If the World Health Organization (WHO) is combatting AIDS as part of the new multilateralism, it was NGOs who helped draw attention to the problem. They are always at the frontiers of multilateralism, and often beyond them doing the groundwork and laying the foundation for states to build on.

There is even one international non-governmental organization with a bicameral decision-making process. One chamber consists of over 700 NGOs. The other consists of approximately sixty governments. Both chambers vote on important issues. I refer to the International Union for Conservation of Nature and Natural Resources (IUCN). Surely this is something new and exciting. This evolution of the role of NGOs is as important, and to me at least, as fascinating as any of the hallmarks of which I have already spoken. None of this would disturb John Holmes, who was never doctrinaire but pursued, throughout his life, pragmatic solutions while never losing his convictions or his integrity. He espoused the Canadian concept in the law of the sea of "custodianship", coupled

with the "functional" approach, when to do so was still controversial. John Holmes commented favourably in his 1975 article as follows: "There is an emphasis on concrete problem-solving and a lesser concern with doctrinal attitudes".

How does multilateralism fare when it confronts the hard facts of life on seemingly intractable trade and economic issues? Even here, there are clear indications of stand-still frontiers being challenged and even "rolled back". It would be unfair merely to cite the wide-ranging agenda of the ongoing Uruguay Round of Multilateral Trade Negotiations (in which I was much involved during the years of preparation and launching). No one can gainsay, however, the progress recorded at the mid-term review of the MTN during the meetings of the Trade Negotiations Committee (TNC) begun in Montreal in December 1988 and successfully completed in Geneva in April. It will be recalled that the participants adopted four major decisions on issues new to the trade negotiating process: agriculture, textiles and clothing, safeguards, and trade-related aspects of intellectual property rights. Of equal importance, however, is that by a peculiarly GATT-type bifurcated process, trade in services is now within the ambit of the Multilateral Trade Negotiations, just as John Holmes foretold in his 1975 article previously mentioned. As is the case with the UN system and the International Court of Justice, just as the mourners were gathering to bury GATT, and not to praise it, GATT was being reborn like a phoenix, and now shows every sign of beginning to play again the central trade-enhancing negotiating role originally envisaged for it.

What of the truly intractable issues, such as arms control and disarmament? There is not much progress on chemical weapons thus far, and I speak as one of many who have expended much time and energy on attempts to outlaw the possession as well as the use of these dreadful weapons. On other issues, however, progress is undeniable. The bilateral U.S.A. - USSR agreement on the elimination of intermediate range nuclear missiles (the INF Treaty) did not emanate from the Geneva Disarmament Conference. Two points should be noted, however: first, it was a genuine, albeit limited example of genuine disarmament, and not merely arms control, as the missiles will be

destroyed; second, while the negotiating process was clearly bilateral, there is no doubt that the multilateral alliances of NATO and the Warsaw Pact played a role throughout. The pivotal role of such multilateral alliances was again illustrated when NATO recently survived a serious crisis in reaching agreement on proposals for conventional arms control for presentation in Vienna to the Warsaw Pact countries. (In an article I contributed to the Fortieth Anniversary issue of the *UN Disarmament Bulletin*, I attempted to show the interrelationship between the bilateral and multilateral negotiating processes with respect to a whole series of arms control agreements.)

The NATO Declaration of May 30 included the following passages:

We will increasingly need to address worldwide problems which have a bearing on our security, particularly environmental degradation, resource conflicts and grave economic disparities.

We will redouble our efforts in a reinvigorated United Nations, strengthening its role of conflict settlement and peacekeeping, and its larger endeavours for world peace.

Whatever the eventual outcome of the new negotiations in Vienna on reduction of conventional forces, they have already laid the basis for getting off to a good start. Anyone familiar with the glacial pace of the Mutual and Balanced Force Reduction (MBFR) talks which preceded it (and which made the Law of the Sea negotiations look like an overnight success) will be conscious of the importance of the new frontiers now being approached in the multilateral arms control negotiations in Vienna. It is not necessary to analyze the parallel multilateral process in Vienna of the thirty-five state negotiations on Confidence and Security Building Measures (CSBM's) which opened in Vienna in March, in order to be aware of the progress since the early days of the Stockholm negotiations which preceded them. Not only different concepts of mutual security are being tested -- but new ones. It is not exactly "eat your heart out" news, but it is progress on extremely important matters. Once

again, multilateralism is seen to work when conditions are right and there is sufficient determination, imagination, and perseverance (usually described by the meaningless term "political will").

Turning back to the European precedents, where a distinctive kind of multilateralism has evolved since the Second World War, the whole world awaits 1992, as the European Community extends and consolidates its evolution. Not since the days of the apostles has the figure 12 been of such significance. Indeed, at the risk of sacrilege, those who negotiate with the EEC can verify that the 12 are sometimes one and that one can become twelve, at the option of the EEC. The political process within the EEC is at least as fascinating as the trade and economic aspects. No one can deny that member states of the EEC are re-defining the meaning of their own frontiers through a new kind of multilateralism. When one takes account of the impending elections to the European Parliament and the peaceful settlement process reaching deep into the internal affairs of member states through the European Council and Court, we are witnessing the development of radical new forms of multilateralism, touching on issues as diverse as human rights, air traffic, fisheries and the transport of toxic waste. Whatever all this comes to represent, it is the opening of new frontiers and it is not the decline of multilateralism. The internal negotiating and decision-making process on discrete issues is developing into a process of coalescence and re-structuring.

Meanwhile, institutions within the UN system as seemingly unrelated as the International Atomic Energy Agency (IAEA) and the World Meteorological Organization (WMO) have collaborated to develop an agreement on monitoring and assessment of atmospheric environmental damage in the wake of the Chernobyl disaster. While we may lament that they could not go further, we must applaud what they did achieve. Once again, there are further signs of recognition of the need for a multidisciplinary if not quite a holistic approach.

If we turn to the field of human rights, it is not hard to discern new trends. The obvious one is the gradual progression from the international legislative phase to the beginnings of the implementation phase, still falling short, unfortunately, of

anything approaching enforcement. Another important trend is the increasing scope and diversity of the human rights treaty network, particularly when coupled with refugee law. There is also, of course, an evolution of international law in moving from the recognition of the individual as an object of international law towards acceptance of the individual as a subject of international law. Who would have foreseen this when the Charter was founded? John Holmes, perhaps, but not too many others. Would anyone have envisaged that we would find in the Draft Code of Crimes against the Peace and Security of Mankind now under consideration in the International Law Commission a proposal to include deliberate or wilfully negligent commission of an environmental catastrophe? In case that seems a far cry from human rights *per se*, consider the following passages from the 1973 Jan Schneider textbook previously referred to:

All the resources of the Earth-Space community are knit together in a maze of intimate ecological interdependence -- embracing ... air, climate, topography, soil, geological structure, minerals, water resources and access to waters, natural vegetation and animal life -- which condition, and in turn are conditioned by, the institutions and practices by which the individual human being seeks to satisfy social, psychological and bodily needs and demands.

Her thesis is described in the foreword to her book as "a comprehensive conceptual framework which will facilitate clarifying and implementing the common interest of humankind in an appropriate and effective international law of the environment ... For her there is an ecological dimension, just as there is a human rights dimension, in every human interaction." (Modesty prevents me from revealing who co-authored that heavy stuff.) Jan Schneider herself postulates "the right of all people in present and future generations ... to freedom, equality, and adequate conditions of life in an environment that permits a life of dignity and well-being." Admittedly, the espousal of such high principles by a single author is more than one step removed from their acceptance by the international community as a whole, but the trail is blazed for those who wish to follow it. John Holmes showed just how abreast he was of such forward

thinking when he wrote for his lecture last year: "It is an ideal time ... to discover ... how to use the growing threat to the globe itself to create the will for international self-discipline, which is what international institutions are all about." It is encouraging that there are indications of awareness by influential governments of the need for such international self-discipline in the interests of the common good.

Amongst the many kinds of multilateralism concerned with these new frontiers is the Economic Summit of the Seven in Paris next month, which will focus on the environment as a vital resource in itself. Even on newly recognized environmental issues, the shift is to a broader ecological approach. This is another hallmark of the new multilateralism, an extremely encouraging, albeit long overdue one. It is becoming recognized that we are all in the same boat, and we must all bail together or sink together. Developed countries are beginning to be aware of the need for the development and transfer of environmentally friendly technology, conservation, waste management and re-cycling techniques to developing countries. The implications are tremendous, and so are the challenges of these new frontiers of multilateralism.

Multilateralism has already made major contributions to resolving some of the increasingly urgent global ecological issues. High level conferences in London and Helsinki have launched the process of reviewing and strengthening the Montreal Ozone Convention. On acid rain, the Economic Commission for Europe (the ECE), a form of "regional" multilateralism that straddles the Atlantic, has negotiated two important protocols on reduction of emissions of sulphur dioxide and nitrogen oxides. The first meeting has been held under the aegis of the ECE on reduction of fossil fuel emissions. The example set by President Bush should have a major positive impact on these negotiations, and on the consultations on auto emissions and related environmental issues under way in the European Community. The Intergovernmental Panel on Climate Change has a mid-1990 deadline for its extensive and complex multidisciplinary consultations and implementation. Some states are calling for a 95% reduction of controlled CFCs by 1999. The Declaration of the Hague, attended by many Heads of Government and State, has injected real

political momentum into the multilateral consultations. Negotiations will be held at the Netherlands Ministerial Conference on Atmospheric Pollution and Climate Change this fall. The Second World Climate Conference will be held in late 1990, by which time the outline of a framework convention on the atmosphere and a climate change convention could conceivably be ready for consideration. The UN Conference on Sustainable Development, is scheduled for 1992. Conferences on sustainable development are also being organized by Japan for September 1989 and Norway in May 1990.

The problem of deforestation is increasingly acute and creates global ecological problems. Slashing and burning not only contribute to global warming but accelerate the extinction of species through the destruction of forest habitat. Rainfall problems are being altered and groundwater affected. The widespread concern over damage to the ozone layer is now coupled with fears of potential climate warnings. Another hallmark of the new multilateralism seems to be a common sense of urgency over these issues generated by a shared sense of peril and even, perhaps, guilt or responsibility.

The Brundtland Report, itself a production of multilateral consultation and study, has focussed attention on the need to develop an environmental ethic which would ensure that future global economic activity will be sustainable. A year ago the Toronto Conference on the Changing Atmosphere endorsed the concept of sustainable development. The Toronto Declaration outlined a series of legal principles and called for a range of action directed at slowing and halting the degradation of the environment. It also called for further development of the international law of the atmosphere. In February of this year a multilateral conference of 80 legal and policy experts from many countries was held in Ottawa to develop further the legal and institutional framework for scientific and legal principles for a possible umbrella convention for the protection of the atmosphere, and to identify the elements for a possible convention on climate change. The experts were drawn from a broad spectrum of developed and developing countries. They made far-reaching recommendations for protocols to limit emissions of carbon dioxide and other greenhouse gas into the atmosphere.

To achieve these goals it will be necessary to develop radical changes in human activities, which will press further against existing frontiers of multilateralism, since they will entail shifts in thinking from nationalism and sovereignty over the atmosphere up to outer space towards new ways of regarding the commons, including the atmosphere over the high seas, and even outer space itself. New rules will be needed which will not negate sovereignty but which must subsume the common interest in the atmosphere of every state, as well as the atmosphere beyond national jurisdiction. Such concepts have already been created in the law of Antarctic and the new Law of the Sea, but the birth pangs of the common heritage of mankind were long and painful. The multilateral negotiating process must be accelerated to ensure the protection of the atmosphere. Certainly the development of the law alone will not suffice, as economic, social, trade and debt practices may also have to be altered forever.

In the face of such problems it might be understandable if we were to become cynical or defeatist about the likelihood of acceptance of the kinds of new attitudes and policies which are clearly needed. As John Holmes wrote: "The posture of the cynic is always tempting. Its uncompromising stance so easily disguises its essential naïveté. It is easier to holler 'Doom' than think of ways of avoiding it."

I referred earlier to the need to stretch one's mind to develop whole new conceptual approaches to the global commons through an environmental ethic founded on a shared interest. The right approach coupled with carefully chosen terms, such as "custodianship", can increase international solidarity in a common cause. An abrupt demand without adequate preparation can create fears of state liability in new fields of human activity, and could be counter-productive. We are at the outer edge of new frontiers in multilateralism in considering the establishment of a world atmosphere fund to which Norway and the Netherlands have offered to contribute. We may be seeing the beginning of a "no fault" insurance-type approach to the crucial problems of the commons. It is evident that new thinking, as well as new kinds of commitments, will be needed.

In John Holmes' 1975 article, he spoke of what is needed:

"A common characteristic throughout is a conscious tendency towards pragmatism, functionalism, and flexibility, most notably in responding to the need for change." He also pointed out, in the same article, that "one value of the UN forum is that it induces pragmatism and reveals the irrelevance of the cloistered doctrine, capitalist or marxist." The same applies to international law. In his typically forward-looking article, written in 1975, John Holmes observed: "It is essential to have a wider understanding of what is at stake. It is no less than the survival of the attempt to maintain and extend international regulations over the increasingly perilous activities of mankind." He pointed out that this could best be done "through the flexible instrumentalities provided by the United Nations".

In endorsing these guidelines for the future frontiers of multilateralism, may I close by associating myself with another quotation from John Holmes, also written in 1975, nearly 15 years ago, but as topical now as when it was made: "If the UN didn't exist, something very like it would have to be invented."

ABOUT THE ACADEMIC COUNCIL ON THE UNITED NATIONS SYSTEM

The Academic Council on the United Nations System was founded at a conference held at Dartmouth College on June 26-28, 1987. The Council is an international association of educational and research institutions and individual scholars, teachers, and practitioners and others who are active in the work and study of international organizations. The Council focuses special attention on the programs and agencies of the UN system and other inter-governmental and non-governmental organizations that enhance the capacity of the international community to manage common problems on the global agenda. A major purpose is to support educational and research projects that expand our understanding of the problems of international cooperation and the role of international institutions.

The work of the Council is supported by foundations, member institutions and fees from individual members. This support has enabled the Council to establish working groups on teaching, research and documentation. The Council has its headquarters at the John Sloan Dickey Endowment for International Understanding at Dartmouth College. The Council has also been able to open a liaison office at the Ralph Bunche Institute on the United Nations at the Graduate Center of the City University of New York in order to provide a direct link between members and UN Headquarters in New York.