
Essay: What Has Not Changed Since September 11 — The Benefits of Multilateralism

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In the twelve months that have now elapsed since the terrorist attacks of September 11, 2001, I have heard many assertions that “everything has changed.” I wish to discuss one thing that, in my view, has not changed in that time: the benefits of multilateralism. I believe it is in the best interest of the United States to follow a policy in international relations that recognizes and builds on those benefits. In this short essay, I shall first describe what is “multilateralism” in U.S. international relations, and then I shall explain some of the key benefits of following such an approach. In doing so, I shall comment on the proposal now being discussed for an armed attack — possibly a unilateral attack by the United States — on Iraq in order to bring “regime change” to that country. Although I assume that this debate will be concluded soon, I believe its significance extends far past the issue of Iraq.

I. MULTILATERALISM AND THE UNITED STATES

Multilateralism has been a key feature of U.S. policy for over fifty years. Perhaps the most dramatic burst of multilateralism in the twentieth century appeared just after World War II. Stung two times in as many generations by the horrors of world war, and understanding that American isolationism after the first of those wars had contributed importantly to the second of them, the United States led the efforts to create a revolutionary new legal and institutional regime designed “to save succeeding generations from the scourge of war.”¹

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That regime featured three central elements. First, states agreed to prohibit the unilateral aggressive use of force by one country against another.² Second, states agreed to limit the right to use force in self-defense to those circumstances in which a state was already under armed attack from another country.³ Third, states established a collective security arrangement under which the international community as a whole, acting through the Security Council of the United Nations, could identify threats to the peace and then use whatever means were necessary — including the use of armed force — to maintain or restore international peace and security.⁴

The announcement of these three elements in the Charter of the United Nations, signed in San Francisco in 1945, represented a formal rejection of unilateralism and an enthusiastic embrace of multilateralism by the United States and all other countries of the world that joined the United Nations. Today, of course, practically all countries are U.N. members.

Building on this foundation, laid in the 1940s, the United States has led the way along the road to multilateralism in scores of other ways, not only in matters of peace and security but also in matters of trade and economic development, environmental protection, and human rights. The book of documents that law students use here at the University of Kansas in studying international law runs into the hundreds of pages, most of them filled with multilateral treaties set forth in very small print, and those treaties represent only a fraction of the whole body of multilateral agreements that have gained broad international support and come into force in the past half-century or so — many of them reflecting a strong U.S. influence.⁵

Several of those treaties not only set forth rules of conduct binding on states but also establish international institutions responsible for seeing to it that those rules are followed, enforced, and updated as necessary. We hear or read on a regular basis about a few such multilateral institutions — for example, the U.N., the International Monetary Fund, the World Bank, the World Trade Organization, and the World Health Organization — but in fact dozens of such institutions have been established in the last fifty years, most of them with heavy U.S. involvement. Efforts of these institutions have helped fight disease, facilitate international travel, boost commercial activity, enforce health and safety standards, promote economic growth, protect endangered species, and address countless other issues that are global in character.

By its leadership in helping establish such rules and institutions, the United States has traveled the road of multilateralism, and indeed has played a central role in the design and construction of that road. For more than fifty years, a key theme of U.S. international relations policy has been that multilateral action promises greater rewards than does a policy of going it alone, particularly in a world that has grown much more crowded, more connected, and more technologically advanced in recent decades.

I should hasten to add, however, that the United States has also taken numerous side trips, departing temporarily from the road of multilateralism. During the Reagan

years and so far during the early years of the second Bush presidency, the United States has disregarded important international legal obligations and dismissed valuable efforts at cooperation on many fronts. For example, the Reagan White House ordered military action in Grenada in 1983 that was almost surely inconsistent with America's U.N. Charter commitments.⁶ Likewise, in 1986 the United States disregarded its own earlier commitment to accept the jurisdiction of the World Court, and even announced a refusal to comply with the Court's judgment on the merits, in which the Court ordered the United States to pay compensation for having violated international law by carrying out certain military operations in Nicaragua.⁷ Before that, in 1982, the Reagan administration thumbed its nose at eight years of meticulous negotiations, all of it with heavy U.S. involvement, by refusing to sign the 1982 Law of the Sea Convention.⁸ Now, a generation later, the second President Bush is making his mark in world opinion by withdrawing from the Anti-Ballistic Missile treaty,⁹ rejecting the Kyoto Protocol on environmental protection,¹⁰ and trying to block the formation of an international court to prosecute war criminals.¹¹

These incidents, however, are aberrations from the general U.S. embrace of multilateralism, and we should know enough history to recognize them as such. The Bush Administration now in Washington should know enough history to recognize that some of its actions represent sharp departures from the general momentum of U.S. international policy for several decades. And, most importantly, the U.S. government and the American people should recognize the dangers that could lie ahead if we abandon the road of multilateralism and embark instead on a road of unilateralism in our international relations.

II. THE DANGERS OF UNILATERALISM TODAY

Having spoken briefly about multilateralism in general, I want to turn now to the current debate over U.S. policy in international relations as it applies to the post-September 11 world. I shall focus especially on U.S. policy toward Saddam Hussein's Iraq because that is, as of late September 2002, the most immediate and troubling issue in U.S. international relations.

I see several specific dangers inherent in a unilateralist approach in dealing with Saddam Hussein of Iraq. First among these is the legal danger — that is, the danger of reneging on our treaty obligations and thereby breaking a legal rule that has stood at the center of international relations for more than 300 years, that a country has a legally binding obligation to honor its treaty commitments.¹²

As things stand now, with no actual Iraqi strike in progress against the United States or any other U.N. member, a unilateral U.S. attack on Iraq would almost surely constitute a breach by the United States of its treaty obligations under the U.N. Charter.

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Under Article 2(4) of the Charter, the United States has undertaken to “refrain in [its] international relations from the threat or use of force against the territorial integrity or political independence of any state”¹³ Although Article 51 of the Charter permits the use of force in self-defense, that permission applies only in the case of an armed attack,¹⁴ and at this stage Iraq has not attacked.

Have all U.N. members always followed these rules prohibiting the aggressive use of force? Of course not. The last fifty years have seen numerous military attacks by one state on another. Does that mean the U.N. Charter rules have no meaning or force? Of course not, just as the fact that murders occur in Kansas does not mean that the prohibition on murder has no meaning or force.

Let’s look more closely at the rules on self-defense. Some states have asserted a right to “anticipatory self-defense” — that is, a right to use pre-emptive military force against a country that itself is poised to launch an imminent attack. Is that legal under Article 51? No, not under the obvious meaning of its language, and not in the eyes of many states and commentators. The assertion of a right to anticipatory self-defense has been either challenged or actually rejected by most states,¹⁵ because of the obvious concern — that a state would engage in the exaggeration or the outright fabrication of an alleged threat from another state in order to justify its own attack against that other state.

Does this mean that the United States cannot, under current circumstances, launch a unilateral attack against Iraq and still be true to its treaty commitments under the U.N. Charter? I think that is precisely what it means. Moreover, even if the answer is not as clear as I think it is — that is, even if we could construct some creative arguments as to why the words of Article 51, describing the right to self-defense, do not really mean what they say — is it really in our national interest to do that?

Of course not. In my view, the United States should hew to the principle that it constantly urges other countries to respect: the rule of law. This is the same point I made a year ago in discussing the legality of a U.S. attack on Afghanistan following the September 11 tragedy.¹⁶ I said then, and believe still today, that it is crucial for the United States to abide by its international treaty obligations for two key reasons. First, as a matter of principle, we would demean ourselves and our values if we were to dishonor our pledge to respect the rule of law. Second, as a practical matter, if we disregard or disavow our treaty commitments to other countries, then we can scarcely expect other countries to honor their treaty commitments to us. Instead, our actions would invite other countries to disregard the law, which happens (ironically) to be what we are now complaining that Iraq has done.

Accordingly, I see it in our national interest to be particularly careful to honor our treaty commitments fully and fastidiously. To do otherwise — that is, to play fast and loose with those treaty commitments — exposes us to the dangers of illegality.

In addition to those dangers of illegality, there are further dangers — in terms of security, in terms of relations with Arab states, and in economic and financial terms — in taking a unilateral approach to dealing with Iraq. As a security matter, such action could be the death-knell of international support for the much-vaunted U.S.-led “war” on terrorism, because the very countries on which the United States relies as allies in such “war” would regard themselves as having been snubbed by a cowboy country whose power had made it arrogant.¹⁷ International support for combating terrorism is weak enough already that a go-it-alone policy by the United States in dealing with Iraq — especially the launching of an outright military attack — could alienate other countries so profoundly as to bring the anti-terrorism campaign to an abrupt halt.

As for U.S. relations with Arab states, the message was conveyed clearly earlier this month (September 2002) by the League of Arab States: a unilateral attack by the United States on Iraq would meet condemnation and resistance from other countries in the region.¹⁸ This would be in sharp contrast to the Gulf War scenario, in which several of Iraq’s neighbors provided direct assistance in the U.S.-led, U.N.-sanctioned attacks against that country. Even if a strike against Iraq today could be launched successfully without support in the region, doing so could have terrible long-term repercussions for U.S. relations in a part of the world where the United States needs fewer enemies, not more.

As an economic and financial matter, even complete success in a unilateral U.S. military effort at “regime change” in Iraq could be enormously costly for the United States. The expense of taking the military action to displace Saddam Hussein might pale in comparison to the expense involved in installing, nurturing, and controlling a replacement regime.

III. A COLLECTIVE CALL TO ARMS

I have identified several dangers (legal, political, economic and financial) that would attend a unilateral U.S. attack on Iraq. Now I wish to discuss a different approach, a multilateral approach, under which an attack on Iraq could be perfectly legal. It is what I mentioned earlier (in part I of this essay) as the third element in the regime established after World War II to maintain international peace and security.

Articles 24 and 42 of the U.N. Charter confer on the Security Council the authority to use force in combating threats to such peace and security.¹⁹ This authority was invoked in 1950 to fight North Korean aggression against South Korea, and it was invoked again in 1990 to fight Iraqi aggression against Kuwait. The collective security regime did not work perfectly in either case, nor did it work exactly as envisioned in 1945, but it did provide the vehicle by which aggression by one state was met with an

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effective multilateral response. That vehicle offers an effective way through the current crisis regarding Iraq.

What is that crisis? It seems clear (based on publicly-available evidence, leaving aside whatever classified information the Bush administration claims to have) that Saddam Hussein's Iraq has engaged in a relentless campaign to acquire nuclear, chemical, and biological weapons, as well as the means of delivering them. A recent New York Times article gave chilling details of that campaign and its success to date,²⁰ noting for example that Iraq probably has never stopped producing a chemical called VX, "a nerve agent so potent that a drop on the skin or inhaled can kill an adult within minutes."²¹ It seems equally clear that Saddam Hussein's Iraq would not hesitate to use these weapons, as it did in relatively primitive forms in its 1980s war with Iran.²² That, it seems to me, amounts to as much of a "threat to the peace" (quoting from the U.N. Charter) as the Security Council would need in order to authorize immediate action against Iraq, in order "to maintain or restore international peace and security."²³

The Security Council action could take a variety of forms. It could start with the immediate return of special U.N. inspection teams to investigate Iraq's current production and stockpiling of weapons of mass destruction. Indeed, this step apparently will be taken very soon, perhaps even by the end of September or early October.²⁴ Security Council action could also include severe restrictions and inspections of imports into Iraq to guard against external support of that country's campaign to acquire such weapons — in order, for example, to intercept more of the special equipment that recently made its way toward Iraq to enrich uranium, also as reported recently in the New York Times.²⁵

These initial steps, if taken forcefully, could amount to an injunction; that is, Saddam Hussein would be prevented from further development or acquisition of weapons of mass destruction. Going beyond those initial steps, action by the Security Council could also include the use of armed forces (from the United States and other countries) to stifle Saddam Hussein's attempts to violate no-fly zones in the north and south of the country, or otherwise to act contrary to the requirements imposed by numerous Security Council resolutions following the Gulf War. These actions could be undertaken in quick succession, or even all at once, and if they proved unsuccessful they could be followed immediately with military action to force the current government of Iraq out of power.²⁶

All of these actions are possible under the existing multilateral system, and I believe all of them are better if carried out under the existing multilateral system than if carried out unilaterally by the United States. Moreover, the follow-through to a "regime change" in Iraq is also more promising — or at least much less unappealing — under a multilateral approach. The cost and risk to the United States of managing a post-Saddam Iraq would be substantially lower if a multilateral effort, rather than a

U.S.-only effort, were undertaken to rebuild the country economically, politically, and legally — as has been done, for example, in Namibia, Cambodia, East Timor, Afghanistan, and several former Soviet republics. The mixed record of successes and failures in those countries is probably more of a reflection of the inherent difficulty of the task than of any inherent unworkability of a multilateral transition team. In any event, the United States should not wish to take on such a task itself, without broad support from other countries both inside and outside the region; and such support for the follow-up efforts would be impossible without broad support from the inception for the campaign to dramatically change either Iraq's behavior or its government.

Why stop at Iraq? Some people suggest that “regime change” is needed in numerous countries. Enthusiasts for a unilateral U.S. approach might claim that any attempt at a multilateral approach would be a fruitless waste of time, since many members of the international community would balk at Security Council action aimed directly at ridding the world of an evil government, on grounds that such Security Council action might next be turned against their own governments. Those unilateralists lack imagination. It should not be difficult to give a very narrow formulation to the terms and conditions of an Iraq “regime change” initiative of the Security Council, so that only the most egregious and dangerous behavior would provide justification for such an initiative. There is, it seems, only one Iraq. If others appear — that is, if other countries come under the control of forces that present such a deadly threat to international peace and security as the evidence suggests that Iraq does — then multilateral action should be taken against them as well.

My point is not to insist that any wholesale effort at “regime change” around the world can or should start immediately. Not at all. Instead, I wish to insist on something else — that we recognize the potential of multilateralism and use it. Rules and institutions already exist to handle the kind of threat to international peace and security that Saddam Hussein's Iraq poses today. Was the current Bush Administration unaware of these rules and institutions when it first started sounding the loud alarms a few weeks ago about Iraq? Or had the Bush Administration assumed that those rules and institutions were irrelevant beyond any need to discuss them? For whatever reason, the Bush Administration initially made virtually no gesture toward U.N. involvement, or even toward a need for multilateral support. It was only at the outcry of other countries that the administration was forced to acknowledge that reference of the matter to the Security Council could be useful. It was in that context that President Bush spoke to the U.N. General Assembly on September 12.²⁷

In my view, this is a backwards approach. I believe the first thought (not the last) to pop into the minds of the White House strategists dealing with Iraq should have been the legal considerations — that is, how the international rules and institutions that already exist for handling threats to international peace and security can be mobilized.

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Then, in announcing to the people of America and the rest of the world the deep concerns that the U.S. government has about Iraq, the White House should, I believe, have made legal arguments — not just policy arguments — as to why Saddam Hussein's Iraq poses an international threat that requires international attention. Lastly, if and when it comes time for military action to be taken, I believe the United States should make special efforts to ensure that such action is also consistent with the existing legal rules and institutions.

In short, I would urge that in dealing with the challenge of Iraq, and other similar challenges that will doubtless arise in the future, the United States should give very high priority to legality: legality of attitude (how we think about such issues), legality of argument (how we talk about such issues), and legality of action (how we actually handle such issues). In doing so, I believe we shall see that taking the road of unilateralism is a mistake that would cost us dearly.

What if, in the end, the Security Council fails to authorize drastic action against Iraq? For example, what if the Security Council is paralyzed into inaction by political considerations — perhaps completely unrelated to the merits of the case against the current Iraqi regime — that prompt one of the other four permanent members to veto any proposed action against that regime, despite a consensus that Saddam Hussein presents a profound and imminent threat to world peace and security?

In such dire circumstances, perhaps the United States would have to act. In doing so, however, it should muster as broad a coalition as possible from among states of diverse regions, religions, and political leanings. Most important, it should recognize that acting in flagrant disregard of the rules and institutions that the United States helped create more than fifty years ago might well signify the end of a long and productive tradition of multilateralism. In my view, that would be a tragedy. Expressed differently, I believe that unless the United States has absolutely no other choice but to act outside the framework established in the U.N. Charter, the launching of an aggressive unilateral U.S. military action against Iraq would be short-sighted, untrue to our principles, contrary to our national interest, offensive to our allies, a lasting disservice to our children, an embarrassment to ourselves, and a dishonor to the generation of Americans who helped create multilateralism out of the rubble of two world wars.

IV. CONCLUSIONS

I have touched briefly on several points in this short essay. Let me summarize the main ones here:

- Multilateralism has been a key feature of U.S. policy for more than fifty years. Despite some temporary departures, the United States has taken a leadership role in creating an extensive network of global treaty rules and international institutions, on grounds that multilateral action promises greater rewards than does a policy of going it alone.
- Some specific dangers of going it alone — that is, of taking a unilateralist approach — appear in the context of Iraq. One of these dangers, perhaps the largest one, is that of illegality: by disregarding existing international rules and institutions and the U.S.-inspired multilateral approach that they reflect, we run the risk of undermining our own dedication to the rule of law and our ability to insist that other countries follow the rules.
- Other dangers of discarding multilateralism in dealing with Iraq also abound, in terms of security, in terms of relations with Arab states, and in economic and financial terms.
- The crisis identified by the current Bush Administration regarding Iraq can rather easily qualify as a threat to international peace and security that could be handled — and should be handled, according to the U.N. Charter rules that the United States has accepted — by the Security Council. Perhaps more importantly, the same is also true of issues like this that will arise in the future, and we should be careful what precedents are being set.
- In approaching such crises as the one posed by Saddam Hussein's Iraq, the United States should give high priority to legality: legality of attitude, legality of argument, and legality of action.
- If it proves absolutely impossible for the Security Council to take effective action against an imminent threat posed by Saddam Hussein, then perhaps the United States will have to act; but it should not do so without broad multilateral support, and it should not do so without realizing that by acting outside the Charter the United States will be contributing to the death of a multilateral regime it helped create and nurture.

Let me conclude by returning to my original theme. I believe it is not true that “everything has changed” since the tragic events of September 11. It is probably true that the perspectives of many Americans have changed regarding the world and its dangers. If so — if there has been a passing of innocence — then it is also perhaps a passing of ignorance. For most of our fellow humans, the world is an extremely dangerous place. The terrible fate of the several thousand innocent people who died at the hands of a few evil or deranged persons on September 11 has been shared by many millions of people every year who die at the hands of equally evil or deranged persons.

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I doubt the world has grown darker; but more of us have started to see the darkness that was already there.

Something else was also there, and it still remains. That thing that has not changed since September 11 is an abiding hope for a better future created through cooperative action. The road of multilateralism that I spoke of earlier — a road largely designed and built by American efforts and generally traveled by the United States — remains the best path to peace in a deeply troubled world. If that road now has big potholes in it, or if it seems too narrow to carry all the traffic, then the United States should see that as an opportunity to repair and improve the road, not to abandon it. Specifically, if there is a danger of the United Nations becoming “irrelevant,” to use Mr. Bush’s terminology,²⁸ then perhaps it is time for the United States to engage in serious discussions about how to reform the U.N. structure in a way that strengthens its hand in handling threats to international security.

In short, the United States should do what it takes to stay on the road of multilateralism. That road constitutes our best hope of beating back the darkness that we saw come so vividly and menacingly on September 11.

Notes

1. U.N. CHARTER, preamble.
2. U.N. CHARTER, art. 2(4).
3. U.N. CHARTER, art. 51.
4. U.N. Charter, arts. 39-42.
5. For a longer listing of such multilateral treaties, see John W. Head, *Throwing Eggs at Windows: Legal and Institutional Globalization in the 21st-Century Economy*, 50 KAN. L. REV. 731, 741-45 (2002). For a listing of multilateral treaties to which the United States is a party, see U.S. DEPARTMENT OF STATE, TREATIES IN FORCE: A LIST OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES IN FORCE ON JANUARY 1, 2001 337-491 (2001).
6. For an account of the U.S. incursion into Grenada, see A. MARK WEISBURD, USE OF FORCE: THE PRACTICE OF STATES SINCE WORLD WAR II 234-38 (1997). See also Burns Weston, *The Reagan Administration Versus International Law*, 19 CASE W. RES. J. INT'L L. 295, 296 (1987), in which a distinguished international lawyer chastised the Reagan Administration for having "invaded the small Caribbean island of Grenada under the flimsiest of pretexts, in violation of global and regional prohibitions on the use of military force, and then vetoed a Security Council resolution critical of our actions for failing to abide by our treaty obligations under the U.N. and OAS [Organization of American States] charters."
7. See Weston, *supra* note 6, at 296-97. For the Court's determination that the United States violated international law in numerous ways and that the United States therefore owed reparations to Nicaragua for those violations, see *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States)*, 1986 I.C.J. 14, 146-50.
8. See Weston, *supra* note 6, at 296.
9. For a criticism of the U.S. withdrawal from the Anti-Ballistic Missile treaty, see *Bush's Hang-ups*, THE ECONOMIST, Dec. 13, 2001, available at <http://www.economist.com>.
10. For an account of the U.S. rejection of the Kyoto Protocol, see *Kyoto's Last Stand*, THE ECONOMIST, July 19, 2001, available at <http://www.economist.com>. As explained there, the Kyoto Protocol would establish targets for reducing emissions of greenhouse gases.
11. For a recent account of U.S. opposition to the International Criminal Court, see *Both Sides Lose*, THE ECONOMIST, July 18, 2002, available at <http://www.economist.com>.
12. In international law, this legal rule is known by the phrase *pacta sunt servanda*, and it has been viewed as a centerpiece of international law and relations at least since Hugo Grotius wrote his famous treatise on the law of war and peace, published in 1625. For Grotius' views on the binding force of promises, see Hersch Lauterpacht, *The Grotian Tradition in International Law*, 23 BRIT.Y.B. INT'L L. 1, 42-43 (1946). For a more general description of the principle of *pacta sunt servanda* and its role in international law, see MARK W. JANIS, AN INTRODUCTION TO INTERNATIONAL LAW 9, 27, 66 (3d ed. 1999).
13. U.N. CHARTER, art. 2(4).
14. U.N. CHARTER, art. 51 (acknowledging "the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures to maintain international peace and security").
15. For some observations about claims of a right to anticipatory self-defense, see INGRID DETTER, THE LAW OF WAR 86-87 (2d ed. 2000); YORAM DINSTEIN, WAR, AGGRESSION AND SELF-DEFENCE 165-

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- 69 (3d ed. 2001); Louis Henkin, *The Use of Force: Law and U.S. Policy*, in LOUIS HENKIN ET AL., *RIGHT V. MIGHT: INTERNATIONAL LAW AND THE USE OF FORCE*, 37, 45-46 (1989). Henkin points out that “[t]o this day the United States has not claimed a right to act in self-defense where no armed attack has occurred,” although it did take what it referred to as “preemptive action” in attacking Libya in 1985 — an attack that was “widely condemned” as being unjustified. *Id.* at 46.
16. See John W. Head, *Essay: The United States and International Law After September 11*, 11 KAN. J. L. & PUB. POL’Y 1, 2 (2001).
17. The July 2002 report of an independent task force on public diplomacy, sponsored by the Council on Foreign Relations, explains that “there is little doubt that stereotypes of the United States as arrogant, self-indulgent, hypocritical, inattentive, and unwilling or unable to engage in cross-cultural dialogue are pervasive and deeply rooted.” See *Public Diplomacy: A Strategy for Reform* (2002), available at http://www.cfr.org/PublicDiplomacy_TF.html.
18. See Rajiv Chandrasekeran, *Arab States Voice Opposition to Any U.S. Attack on Iraq*, LAWRENCE JOURNAL-WORLD, Sept. 6, 2002, available at <http://www.ljworld.com> (reporting on declaration adopted by the League of Arab States protesting proposed U.S. military action against Iraq).
19. U.N. CHARTER, arts. 24, 39-42.
20. See Michael R. Gordon and Judith Miller, *U.S. Says Hussein Intensifies Quest for A-Bomb Parts*, N.Y. TIMES, Sept. 8, 2002, at 1, 15.
21. *Id.* at 15.
22. See *id.* (noting that in its 1980-1988 war with Iran, “Iraq used artillery shells, aerial bombs and rockets to delivery deadly chemicals.” For a general account of the Iran-Iraq war, see WEISBURD, *supra* note 6, at 47-52. For a reference to the use of chemical weapons in that war, see IGE F. DEKKER & HARRY H.G. POST, EDS., *THE GULF WAR OF 1980-1988: THE IRAN-IRAQ WAR IN INTERNATIONAL LEGAL PERSPECTIVE* 112-13 (1992).
23. Both quoted passages appear in the U.N. CHARTER, art. 39.
24. See *Saddam Plays His Ace*, THE ECONOMIST, Sept. 19, 2002, available at <http://www.economist.com>. (reporting on Iraq’s decision to allow a return of U.N. arms inspectors).
25. Gordon and Miller, *supra* note 20, at 1.
26. Proposals along these lines were being made by President Jacques Chirac of France in early September. Elaine Sciolino, *French Leader Offers Formula to Tackle Iraq*, N.Y. TIMES, Sept. 9, 2002, at A1.
27. See *In Bush’s Words: On Iraq, U.N. Must Face Up to Its Founding Purpose*, N.Y. TIMES, Sept. 13, 2002, at A1, A10 (reprinting the transcript of President Bush’s September 12 address to the United Nations).
28. See *id.* at A10: “Are Security Council resolutions to be honored and enforced, or cast aside without consequence? Will the United Nations serve the purpose of its founding, or will it be irrelevant?”