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P R O C E E D I N G S

MR. DAALDER: — and when it is not; how it can be made legitimate when it is decided that it necessary to use force.

The purpose here of the public panel is a start of something that we are going to spend more time on behind closed doors. Many of us in this room will continue the discussion for the next two days of a final effort to, if we don't reach consensus, at least know where the major fault lines lie internationally. We have a group of folks from all around the world who have participated in the last two plus years in a series of bilateral dialogues that the Brookings Institution has sponsored with folks in Europe, with the Russians, with the Chinese, with people from Africa, the Middle East, South Asia, Mexico, and Latin America in order to start getting at these questions. Now, we are bringing a whole group of those participants together, first to start discussing some of these issues publicly but then behind closed doors for the next two days.

Brookings has been fortunate to have received funding from a variety of institutions across the United States, from the Hewlett Foundation, the Carnegie Foundation, the Rockefeller Brothers Fund as well as from international organizations like the European Commission in order to be able to do these workshops. We have been fortunate as a group here at Brookings. Jim Steinberg, when he was still the director of the program, and I started the project and continued to lead it, and a number of Americans have participated in each of these workshops. Susan Rice from Brookings, Ed Lucke from Columbia, Walt Slocum

from Kaplan and Drysdale, Bruce Jentleson from Duke University, David Shepard from Northwestern University, Anne-Marie Slaughter from Princeton, and Paul Stares from the U.S. Institute of Peace form the core American group together with Jim and myself to conduct this dialogue with people from around the world.

Through it all, let me note the excellent and extraordinary effort of Anne Kramer who has put not only this meeting as usual together but every other one in her internal way in order to figure out how to do this without anyone noticing what it goes into getting that many people into the same room at the same time in the same place from that many different places of the world.

As I said, we have had these bilateral dialogues with folks from around the world. We have learned a lot from these sessions, and we hope to come to some conclusions. Jim and I have already come to some conclusions, and that is where we are going to start off here today.

Jim, who, as all of you know, was the Director of Foreign Policy Studies and Vice President here at Brookings and before that was the Deputy National Security Advisor to President Clinton, is now the Dean of the LBJ School of Public Affairs of the University of Texas at Austin. Jim will present the main findings of our project so far.

Then we will have three people who have in way or another participated in our efforts in the past to comment on it. I can't think of three better people than those we have here. François Heisbourg, who, like Jim, was once my boss,

though a longer time before that when he was Director of the IISS in London and is now the Special Advisor to the Fondation pour la Recherche Stratégique in Paris.

Edward Mortimer, formerly a reporter and columnist at the *Financial Times* and for the past, what is it, almost 10 years?

MR. MORTIMER: Eight years.

MR. DAALDER: Eight years, he has been Director of Communications to the UN Secretary-General, Kofi Annan, and in that capacity has helped draft many of Mr. Annan's speeches and statements, many of which have dealt with this very issue of how to use force and how to legitimize it.

Ambassador Alfred Dube, currently the Managing Director of Lazare Kaplan in Botswana, is one of Botswana's most senior and esteemed diplomats, serving as his country's Ambassador around the world including in the U.K., the Soviet Union, and from 2000 to 2005 at the United Nations.

I have asked the speakers to be concise in their remarks. They will; I am sure. We will have a discussion among ourselves, and then we will open up for a discussion with you here in the audience.

With that, why don't I turn it over to Jim for his first reflections?

MR. STEINBERG: Thank you, Ivo. It is very nice to be back. This is familiar, warm surroundings.

I want to join Ivo in thanking the sponsors of this work and the participants for what I think has been a really remarkably interesting and enlightening set of

conferences. It is a fairly unique kind of exercise that we undertook here, and I

appreciate the fact that people were willing to stay with us through a long process,

but I think it has produced a lot of interesting observations and insights.

What I want to do this morning, as Ivo said, he and I have reached some

conclusions about this, but I don't really want to focus on our own views about

this but reflect a little bit on the series of dialogues that we have had and what

they revealed about this broader question about the role of force in the

international system.

I think it is important to give this a little context. We started this project

back in 2002, 2003, in the context of the intense international and domestic debate

over Iraq and also in the context of the Bush administration's National Security

Strategy which focused in an important degree on the question of the use of force

and particularly whether the rules governing the use of force needed to be revised

in light of the post-9/11 security environment. What was clear at that time was

that there both an intense and pretty vitriolic debate both within the United States

and between Americans and important partners around the world about this

question, and that while many of us were struggling to see whether there were

common positions that could be developed in the United States, it didn't make a

lot of sense for Americans to come around an answer to some of these questions if

we were going to find ourselves deeply at odds with the rest of the world.

Obviously, the troubling experience with the Iraq debate helped frame that.

The idea was as we pursued the internal domestic debate about the right

strategy and the role of force was there some way to try and connect that to how others were seeing the question and to find out whether there were any common bases for going forward.

Our work on this was informed by the fact that although there was a lot of criticism both at home and abroad of the Bush Administration's National Security Strategy, particularly the role of preventive force, some of us who had worked in previous administrations and actually had to grapple with this issue in other contexts, felt that in some respects the political debate over prevention was not doing justice to the deeper real questions. From our own experience, both Ivo and I in the Clinton Administration and some of the other members of the American side where we had seen the preventive use of force or debates about it in the context of humanitarian intervention and also dealing with the problem of weapons of mass destruction and terrorism, we all felt that the debate was becoming very caricatured and not getting deeply into the questions based on real world experience. So, we launched this project, and quite fortuitously, as Ivo mentioned, the Secretary-General also launched the project through the high level panel which grappled with similar questions. We were fortunate during the course of this project both to work with people involved in the high level panel discussions and, in fact, pursue a parallel track. Since the report of the high level panel came out during the course of these discussions, it also helped frame some of our own debates to whether the high level panel got it right in the way it looked at the question about the role of the Charter, how to think about the Charter and

their use of force, particularly preventive force, in the new international system.

What we hoped to answer through these dialogues was whether there was any agreement first on the broad question of whether there was a need to rethink the basic rule of governing the use of force in the international system; and then if, in general, there was an openness to have that discussion, under what circumstances might we want to think about different rules or different approaches to the problem of use of force, what should those rules be, under what authority should the decision of the use of force be decided and the like.

It is probably not a surprising but I think an important conclusion that on the basic question, there is really quite a remarkable and broad consensus that the nature of changing the international system does require a rethinking about the role of force and the use of force in ways that are quite different from the way the problem was thought about and focused on at the time of the adoption of the Charter. In two important respects, the world has changed. The character of the threats we face are different than an international system which was largely preoccupied with state to state aggression and one which had to deal with a whole new set of challenges ranging from terrorism to proliferation of weapons of mass destruction to environmental damage. Also, the growing interdependence of the international system made it important to develop new approaches, the fundamental question of what goes on within a country matters more and more to those outside the country, and therefore the way in which we think about sovereignty and both the responsibility of the state vis-à-vis its own internal

affairs and the responsibilities of the rest of the international system when things are going awry in the state had changed.

And so, on that basic level, I think we found, with minor exceptions, that there was a fairly broad sense in which at least the need to rethink the question was something that was broadly accepted. Interestingly, the leading wedge into this was not what had prompted this whole debate, namely terrorism and security threats, but rather the fact the evolution of thinking around the world on the question of humanitarian intervention. In some respects, the one thing that had gotten pretty well accepted, at least as a matter of principle, by the early 21st Century was that, at least under extreme circumstances, there was both a responsibility of states to avoid extreme humanitarian crises either through neglect or their actions and a corresponding right of the international community to deal with that problem. So you have a fairly broadly accepted set of principles reflected in the conclusions of the high level panel but also more broadly in the evolution of customary international law and the attitudes even of countries which historically, and even during the late 1990s, had resisted that. The fact of this broad acceptance, at least in the cases of genocide and other extreme humanitarian crises, state sovereignty was conditional and, in fact, opened up a broader debate about more generally under what circumstances should sovereignty be seen as conditional and particularly on security cases.

It is also clear that this evolution of thinking in the international system in almost all of our interlocutors, how they saw it, not surprisingly, was driven by

their own experience. And so, while you might think based on historical

experience that in Africa with a strong tradition of resisting the idea of outside

interference because of the colonial experience and the move to independence,

because of the enormous challenges that Africa had faced in the late 1990s,

actually there was a quite broad acceptance among our African interlocutors,

reflected in the founding documents of the African Union, that under a number of

circumstances, sovereignty is conditional. Clearly, that was a reflection of the

experience beginning of Rwanda and some of the other great humanitarian crises

of the 1990s.

But the same sense that rethinking was being driven by actual experience I

think was true for most of the people with whom we engaged in this topic. For

example, when we talked to our Russian counterparts about these issues, we

actually had our dialogue in Moscow right after the attacks in Beslan, and it had a

very profound impact, I think, on the thinking about that question. So you had a

sense in which, though there was a lot of criticism by many at the time about

President Bush's strong sense about our right to deal with the problem of

terrorism wherever and whenever it was found, in the post-Beslan context, it is

not surprising that many Russian thoughtful observers, as well as the political

climate, saw a right and a responsibility to deal, including preventively with the

problem of terrorism. Similarly, I think we saw in our discussion with our

Chinese counterparts, that some of their own experiences with internal challenges

had led them to become more sympathetic to the idea of intervention.

Interestingly, there was one element of our dialogues where there was a different view, and that was largely with our Mexican interlocutors. Thereto, I think you can say that the individual experience of the country was very much reflected. On the one hand was Mexico, not largely having to deal with the kinds of threats or not focused on the threats that our dialogue focused on — terrorism, weapons of mass destruction — but also still very much influenced by its own complex history with the United States. Unique among the dialogues we found among many of our Mexican counterparts, though not all of them, was a much more traditional view about the importance of sovereignty and the need for very, very limited derogations from that protection for the rights of states to be left alone, in effect.

As I said, one of the things that helped propel this was the conclusions of the high level panel which not only accepted the idea of humanitarian intervention but also accepted, very specifically and explicitly, that the nature of the new threats required a new approach to the preventive use of force and accepted the basic premise that the Bush Administration had put forward which is that the nature of some of these threats, particularly with the intersection of terrorism and weapons of mass destruction, meant that the old rules requiring an actual or imminent attack could not be necessarily the right answer in today's world.

The high level panel also posed what then became the second big focus of our discussions which is accepting the broad premise that there may be circumstances now where we need a more accepting approach to the idea of

preventive use of force, how should that be decided and by whom. Clearly, the high level panel, not surprisingly, indicated a strong if not absolute requirement that absent an imminent threat, preventive force should only be used with the authority of the Security Council. This, obviously, became an important source of discussion among our interlocutors throughout these debates.

Again, individual experiences of countries and regions very much shaped the thinking. So, again, somewhat counter-intuitively in the case of Africa, you find that the Constitution of the African Union accepts the proposition of the legitimacy of intervention by the African Union even in the absence of a Security Council resolution. In my judgment and I think from our discussions, reflecting the fact that the Security Council had been ineffective in dealing with the problems of Africa particularly in the 1990s. Similarly, we found in the case of our discussions with our Russian counterparts, also a strong sense that while Security Council authority was desirable when possible, it shouldn't be an absolute bar by any means on acting.

We had a continuum around this question. Again, in the case of our African counterparts, where there was an emerging regional organization, a great willingness to put the locus of responsibility on the regional organization rather than on the UN. Here, the transatlantic debate about this was particularly interesting, a debate which well predated the post-9/11 environment, the debate that we, within NATO, had in the context of the 1998 Washington Summit and the Kosovo intervention which was in the absence of a Security Council

resolution, a NATO decision to act was an adequate basis for the use of force and the ironic debate that took place just at the moment when NATO was intervening in Kosovo, a deep division within NATO countries on the question of principle in the NATO Concept of Operations that was adopted in 1998 about whether we should accept that as a matter of principle or just see this as a one-off event.

I think in our discussions with Europeans, there was recognition that there would be a need, at least under some circumstances, to act without a Security Council resolution. I think what is important and emerging in our discussion is a recognition that, given the limitations of the Security Council, while the first best choice is for the Security Council to act and a great interest in trying to figure out how to make the Council more responsive to deal with these new challenges, there were fewer and fewer advocates for an absolute bar against acting in the absence of a Security Council resolution.

But at the end of the day, after a lot of discussion and broad acceptance of the idea that there are circumstances now in which the old rules need to be changed and the old institutions may not be adequate to deal with those, we got over the in-principle hurdle and yet, when applied to specific cases, there were deep doubts about whether, as a matter of practice and in terms of the efficacy of this kind of intervention, whether in fact this should be an important tool. That is to agree in principle that it is right, but then as we worked through a number of actual cases like the case of Iran and its nuclear program or other quasi-hypotheticals that we discussed in our deliberations, most of interlocutors found

that when push came to shove, the downsides of the practice of preventive use of force were almost insurmountable barriers. So you have a curious development in which what one would have thought was difficult, accepting the principle of modifying the rules of the Charter and the traditional longstanding use of force, that intellectual hurdle, but the matter of practice is one that suggests even if we accept, in principle, the idea of greater preventive use of force, that there is deep, deep skepticism, especially outside the United States but almost universally, that would actually work in practice.

When we framed the issue about both legitimacy and effectiveness or efficacy of the use of force, it came back on itself, which is to say that in some ways, looking at the very practical question of efficacy then raised questions about its legitimacy. That is, if you found in practice that there were very few circumstances in which it would be the right choice and practice to use force preventively, do you want to then enunciate a set of rules that would seem to license it?

That is where we now come to the most important set of questions which is: Do we now need to formulate, having accepted the fact that the world has changed, do we need to formulate some either guiding principles or rules that would be restrictive but not prohibitory for using force? Here, I think a couple of things became clear which is, one, the more that we could identify some very clear norms that established a set of rules, the more I think there was a consensus that the violation of those norms would trigger the legitimate use of force and

something where the costs might be manageable in terms of the downsides. So, for example, with the Genocide Convention and a clear prohibition against genocide, it may be hard to establish the factual predicate, but there is certainly a sense that having that very broadly accepted norm is a good basis. We talked a lot about whether the question of specific prohibitions in the NPT, for example, or more elaboration of the NPT might be another such norm which might legitimate the use of force.

I think that really is now the question: Are we better off in a world in which we broadly accept that there are a limited number of cases where prevention is the appropriate response but still prefer to deal with this as a kind of case by case, we will know it when we see it, or do we need to begin to elaborate on the differences? Here, I think we don't find consensus. I think Ivo and I, in our own conclusions, have felt that it is important to do that, to not see this as something where we pretend to live by a set of principles that we, in fact, don't observe in practice, but it is, I think, part of the emerging debate which is still unsettled in the international community.

I will stop with that.

MR. DAALDER: That is great. That is a wonderful overview of the richness of the discussion that many of you were not able to witness or participate in, but some of you did, and I hope you will find reflected within what Jim has said what we talked about. I certainly did.

Why don't we go from right to left and start with Ed and then move on to

Alfred and François?

MR. MORTIMER: Jim is certainly a very hard act to follow, and I think, obviously, this is a debate that you have gone into very thoroughly and I think most of the points are there.

Perhaps, it is useful to recall, historically, from where the UN comes at this. I think it is broadly true to say that from 1945 to the end of the Cold War, the biggest collective concern of members of the United Nations and the feeling of the raison d'être of the organization as expressed in its Charter was to prevent interstate conflict and aggression by one or more states against another. There was an anxiety to look out for pretexts that people had used in the past or might use for infringing this taboo. Of course, there were cases, as we all remember during the Cold War when aggression occurred, and then because there was division within the international community, it wasn't possible to do anything about it.

I think the debate that we are now participating in really began in the 1990s. It happened that at that period, it focused almost entirely on the idea of humanitarian intervention. The first big problem that presented itself to the world in the aftermath of the Cold War was the new world disorder. Of course, many very disorderly things had happened, but it was during the Cold War that either they were not dealt with by outsiders or they were dealt with on a one-off ad hoc basis which was deplored but allowed to pass. One thinks of East Pakistan in 1971, Vietnam coming into Cambodia at the beginning of 1979, and almost

exactly the same time, Tanzania invading Uganda to get rid of Idi Amin. I don't think any of those were accepted as legitimate by the General Assembly, for example, of the United Nations at the time, but there was a sort of broader feeling of public opinion that, well, okay, it was wrong, but it was better that it happened than it didn't.

If you look at what happened in the 1990s, the real argument was largely not about legitimacy of the use of force. The argument is essentially about whether anybody was going to do it. There was general breast-beating and soul-searching about the fact that it had not been done, particularly in Rwanda and to a lesser extent, Bosnia, although in Bosnia, it was muddied by the fact that Bosnia had been recognized as an independent state and was a member of the United Nations during most of the time that the atrocities were going on. Then, of course, you got to Kosovo where it was felt by a lot of people that there had to be intervention in order not to repeat the previous mistakes.

It was in that context that Kofi Annan elaborated — his doctrine is probably too grand a word — his reminder to the international community that national frontiers and national sovereignty were not, in all circumstances, the last word and that if very large numbers of people were being killed, there was a likelihood that somebody would feel obliged and entitled to intervene. His case has always been, and I think it had to be because he is the spokesman and representative of the only organization we have that tries to provide rules and procedures for this kind of thing. He always took the line that it would be much preferable that these things

be decided by the Security Council. But he was caught in March of 1999 by the

fact that here was an intervention in a case which he had prefigured and warned

intervention might be necessary, but it was done without the authority of the

Security Council.

So he goes to the General Assembly in September of 1999 and says: Look,

I am not saying that this was good, and none of us feel good about the fact that it

was done without a resolution of the Security Council, but the Security Council

should take care. It shouldn't presume on its authority because if it is not able and

willing to deal with a crisis like this, somebody is going to take the law into their

own hands.

That gave rise, of course, to the Canadian Government setting up the

Evans-Sahnoun Commission and the coinage of this brilliant term, responsibility

to protect, which I think does actually bring you much closer to the heart of the

argument because it isn't really an issue about rights. It is a question of: Who is

going to do it? Whose job is it to do it? In what circumstances can you get away

with not doing it and in what circumstances are you obliged to do it?

But, of course, 9/11 arrives just on the eve of the publication of that report

and shifts the argument and attention onto, first of all, self-defense against

terrorism. You get this resolution in the Security Council with a very broad

interpretation of Article 51 of the Charter which legitimizes the U.S. intervention

in Afghanistan, probably not what the people writing Article 51 had in mind,

Afghanistan being a very long way away from the United States, but generally

accepted as legitimate. I remember the only concern that many of us had at the time of the intervention in Afghanistan was the letter that John Negroponte sent to the Security Council which more or less was drafted as to claim a carte blanche to invade anywhere that the United States perceived a terrorist threat. Of course, already then there were some rumors about Iraq and there was concern: Yes, we all sympathize with the U.S. We understand that they need to use force Afghanistan. It is probably in the general interest that they do, but self-defense cannot be an unlimited or infinite justification what, in old-fashioned terms, would be termed aggression, and this notion of preemption perhaps is getting a little bit too expanded.

Then in Iraq, you have a third shift of subject matter, if you like, because although there is an attempt and clearly the atmospheric linkage to terrorism and the aftermath of 9/11, the immediate focus of the argument is about weapons of mass destruction. We seem to have moved from a preemptive war which Article 51 doesn't quite legitimatize that has been understood to be reconcilable with, if you like, if the attack is really imminent and tangible, then you have the right to defend yourself to a preventive war where, in the words of the high level panel, the threat is latent and not imminent. The trouble is Iraq was such a very unfortunate case to try out that doctrine because the threat was so latent that even after scouring the country from end to the other, it couldn't actually be found. I sympathize with the authors of this study who feel, well, if the bathwater of Iraq is so filthy, then all kinds of babies are being thrown out without it being visible.

The reaction to that is very strong, and it comes in stages. First of all, a lot of member states saying, hey, whatever the Charter is supposed to mean, it surely doesn't allow this kind of thing. Why isn't the UN doing something about this? After all, the Security Council famously didn't approve it. Why isn't the Secretary-General doing something about it? Why doesn't he convene a meeting of member states?

The Secretary-General was not in the business of duplicating the institutions and the governing bodies of the UN by convening ad hoc meetings, but this Secretary-General anyway does have rather a predilection for high level panels as a way of moving the consensus forward, and I think this is one of the more successful examples, and they come out with these quite elaborate suggestions about the circumstances in which the use of force might be justified. They pretty much want to keep it in the Security Council, but if you look at the bit on regional organizations, you will see that they do suggest that it may not always be necessary to have the prior authorization of the Security Council. You do it, and then you go and get the authorization subsequently, leaving rather a big question, of course, of what happens if you go and the Security Council says, well, no, actually we think you were wrong. That is left hanging in the air.

The Secretary-General realized that the criteria that the panel was putting forward would not fly with the Security Council in the present political atmosphere. So he put forward a rather more cautious suggestion. Why doesn't the Security Council just adopt a resolution which needn't be completely binding

but could be a useful statement for themselves and everybody else for what the principles are that they would wish to be guided by in future cases where it may be necessary to use force or to authorize the use of force? When member states themselves come to consider the matter and produce the outcome document of last year's summit, even that has disappeared, and we find ourselves with simply a reiteration of what was already in the Charter.

Is that good enough? Clearly, I guess the assumption that most people come to in a discussion like this is that it is not good enough because the interpretations of the Charter are so radically different.

I think the underlying tension is the interest in legitimacy which is not an airy-fairy thing. It is realization that legitimacy is an important element if you want to do something effective. If what you are doing is not perceived as legitimate by many of the people affected, including probably by many of your own citizens, you are much less likely to succeed in your aims, whatever they are. But, on the other hand, an obsession with legitimacy or an endless quest for legitimacy might undermine the effectiveness of what you are trying to do or even lead to complete paralysis. One is left with a truism that any totally inflexible system is going to be disregarded in practiced.

On the other hand, it seems — maybe I have been at the UN too long but I think on the whole — it is better to have strong disincentives to the use of force built into your international rules. The other thing is let us not forget that the issue is more often one of willingness to use force than it is of permission to use

force. I think Darfur is a very eloquent example of this. The responsibility to

protect has been legislated by the member states in the outcome document of the

summit. But how responsible do they actually feel and how easy is it for them to

actually do something to put that responsibility into effect when you have a case

in which I see even the President of Nigeria now says is developing into genocide

like Darfur?

My conclusions, I am afraid, are a bit tame. I think we should all work

harder on developing strategies for dealing with these various kinds of threat that

don't involve the use of force. We should certainly try and get ourselves involved

in these processes further upstream. I have heard David Hamburg say many times

— he is a great expert on the prevention of genocide — by the time the genocide

is happening, it is too late to prevent it. Genocide almost always happens in the

context of conflict. So if we only do a better job of preventing conflict, and I

think this probably applies to these other threats, we wouldn't be confronted with

these very, very hard choices.

But, of course, there are always going to be cases where prevention has

failed, however hard one may have tried. All I think I can say about that is that

the consequences of war are literally incalculable. While probably none of us

would be here if we were complete pacifists, I think that we all should not think

that war is ever the easy option or should be anything but the extreme resort to an

extreme situation.

MR. DAALDER: Thank you, Edward. That was concise and to the point,

leaving me asking if the problem is the unwillingness by countries to use force, why do we constantly have, within our discussions, debates on how do you limit the possibility of using force which is what our rules are all set out to be. That is a tension, and that is the tension that we will come back to, I am sure.

Alfred Dube?

AMB. DUBE: Thank you very much.

I take my cue, I think, from Jim's presentation which really summarized very concisely the issues that have been discussed in the last several months. In my case, of course, it was an African dialogue only three months ago. I find that having listened to the summary, whatever I was going to say has already been said. Anyway, I think the important thing, and I will concentrate and I will focus on that part of the world where the last I looked, it was looking at what is wrong on the African Continent and what can be done in this context.

I think overall the question of intervention to forestall or prevent a crisis situation is basically accepted in principle, but of course there are very divergent views on how, or if at all, you should do it. I think one of the greatest hopes that a lot of us had was during the period of 2003 to 2005 when the Secretary-General appointed a high level panel to look at world collective security and the reform of the United Nations as the international institution charged with maintenance of international peace and security. Now, f course, as Jim has said and Ed Mortimer here, we have had so many reports. We have had a high level report panel and the Secretary-General's own report coming out of that and the debates in the General

Assembly ultimately ending with the high level summit that was held in

September, 2005. In all of those, there were very clear and concise

accommodations on how to deal with the question of intervention. There were

very heated debates, and I consider myself to have been lucky that I was among

the peers at the UN, debating these issues right across the board. It was very clear

that we were all coming to this issue in particular from very different

perspectives.

I think in the African context, our biggest challenge has been in debating

this matter in the context of the various conflicts that we have had on the

Continent and the other international issues like terrorism that have certainly

become issues of concern even within Africa but not of our own making. I think

the examples of Tanzania and Nairobi, the bombings there are a perfect example

of that, of a situation where we found ourselves or the two countries attacked over

an issue that is not really African, an issue that is very external but nonetheless

serious enough to have led eventually to 9/11.

So, in this context, I think in the African context, the major problem or the

major challenge is the use of force of intervention in the context of humanitarian

relief. That, really to us is a very important issue, humanitarian intervention,

because of all the conflicts we have had, whether it is a civil war internally,

largely civil wars anyway, it has been a question of ultimately who are victims of

the situation. They are largely civilians, not necessarily rising from being killed

during the war itself but killed by disease, hunger, poverty. These are the fallouts

of the conflicts we have had on the Continent. When you are facing that kind of situation, there is a very compelling argument to say: Can the international community just lean back and deal with the issues as business as usual, or should extraordinary measures be taken to at least protect defenseless civilians primarily? Also, even more serious is where you have a situation where the state itself collapses and there is no law and there is no order and there is actually a collapse of the whole fabric of government in that particular country of region. I think these are issues of very great concern to our Continent.

The second issue is, over time, during the OAU days, you know in Africa, since we had the formation of the Organization of African Unity, there was a major cardinal phrase which was there was no interference in the internal affairs of the member states, and that became hijacked to a point where literally any government could make any excuse to make sure that if there was any internal explosion or internal instability, they would stand up and say: Well, this is our internal business; you have nothing to do with it, whether it is the OAU or the United Nations or any subregional federation. Now, as Jim pointed out earlier, it is very important and very significant that under the African Union Constitution Act, this principle has been acknowledged as having led, in fact, to the kind of situations that we had over the years. Now, in principle, the African Union fully accepts the principle of intervention, of course, under specific conditions in the event of a complete breakdown of law and order in a member state or in a region.

Because of that and through the Peace and Security Council of the African

Union, for the first time in a few years, we had a situation in Burundi where the AU took it upon itself to say we will take the first lead as the African Union, of course, with the support of the United Nations, with the support of the international community to actually bring in AU troops or AU forces to stabilize Burundi. That is how it started. Then, unfortunately, because of lack of resources, but there was a very beautiful transition from there to where things were taken over in a context with the United Nations. Burundi, I think was a successful attempt to deal with two issues: one, to prevent a state collapsing, and two, to provide humanitarian assistance and prevention of further killings within the country.

That is all well said and done; it doesn't always work. Today, we are faced with a bigger challenge in the same context of Darfur where the African Union sent in the first monitors. When it didn't work, they sent in a force basically not really to stop hostilities but more to monitor what was going on and protect civilians. That is not quite working as intended. The African Union, unfortunately again, does not have the necessary resources to continue with a larger force in Darfur. However, in any case, this is not just an issue of Africa. This is a problem for which the international responsibility is responsible. But now we have a crisis situation where the Security Council having voted and passed the resolution to send in a UN peacekeeping force, the host government has refused to accept that. As you know, it was three months ago, Sudan had even asked the African Union to leave. Thank God, their reason has since

prevailed. The AU is there, but the UN forces have been prevented. The AU has extended its stay in Darfur until the end of the year, but the question is what happens after that.

There is another challenge that I want to come to. We have, for the first time, a case where the a permanent member of the African Union, a permanent member of the United Nations is saying I don't want you here, and yet by all reports that we have a very serious humanitarian situation erupting in that country which, at some point, the international community has to do something about. The question is: How? That will be very interesting in the debate today what ideas come out on that particular issue. This is the challenge that we have on the Continent.

I think really the other issue and my last point which we discussed in our last dialogue and which is a very important issue for which we should continue discussions, is the instability on that Continent is also caused very much by the proliferation of small arms which have caused mayhem on the Continent, more than weapons of mass destruction, simple small arms which have caused so much instability and so much killings. I think it is one issue that we need to discuss as to how this can be stopped.

I think I will stop there for now and throw these issues to the panel. Thank you.

MR. DAALDER: Wonderful, thank you very much.

I think there is an emerging theme here about the need seen by many to do

something but the inability of the international community or actors within the international community to actually do it. It may be as challenging, figuring out what the norms are that we are trying to enforce as to figure out when the norms are violated, how do you, in fact, get that enforcement.

MR. HEISBOURG: Ivo, you have just been preempting me.

François?

MR. DAALDER: This is what Americans do.

MR. HEISBOURG: That is right. Yes, it is a national habit.

Seriously, Edward, you said at the beginning of your own remarks that this debate really arose during the 1990s. (A) That is true, but (B) there is a reason for that being true and that is bipolar constraints have been lifted, Cold War priorities no longer prevailed. Without the change of circumstances, we would not have had the opportunity to revisit the rules.

Genocide did not emerge in the 1990s. Pol Pot was a great practitioner long before that, for example. That, of course, is another way of saying that the revisiting of rules and principles has to take into account the relationship with reality. We are not going to get very far if we don't acknowledge fully the nature of that relationship with the reality pushing and rules being modified as a consequence.

In British case law, I think the statement is possession is three-quarters of the law. Is that correct?

MR. MORTIMER: Nine-tenths.

MR. HEISBOURG: Nine-tenths, my goodness, that is pushing it. I wasn't going to say that performance is nine-tenths of legitimacy but performance is definitely more than half of legitimacy. Therefore, in reflecting on the rules, we would maybe have been better off by putting the requirement for performance higher up on our checklist rather than coming across the clash between rules and reality as we went down in our work. Now as a European, I will say that I am delighted that the work was rules-driven rather than not rules-driven, but still. Of course, our neocon friends were not in many cases against rules as such that they wanted to rewrite the rulebook, but they were wanting to rewrite the rulebook on the basis of a denial of reality. The result you get is, obviously, not phenomenal.

So, what I would like to do in the next few minutes is, first of all, say a few words about the rules, that is the process part of legitimacy, if I can put it that way, and then the reality, the performance part.

Rules; Article 51 has been mentioned. Article 51 has proven and continues to prove to be an extremely broad church. One of the reasons that makes it such an effective broad church is that you have the ex post facto requirement, that is you invoke Article 51, you don't have to go to the Security Council up front, but there is a presumption — well, not only the presumption but the text — that you have to render accounts to the Security Council. Sometimes that happens; sometimes that doesn't. But still, the proof is pretty much in the pudding. Indeed, there was, I think, a pretty broad consensus that we shouldn't be rewriting Article 51.

Secondly, the UN Security Council; well, nobody, not even the most theological UN-hugging Europeans would say that you are not allowed to act under any circumstances outside of either Article 51 justifiable or without a UN Security Council mandate. In practice, we have seen two cases, one which was Kosovo because we didn't have a mandate to go to Kosovo. We had a basis, but we didn't have a mandate. We got the mandate ex post facto.

The other example is Kolwezi, the Lubumbashi, the major Congolese city is taken over by Cuban-sponsored Angolese-Katangese folks back in 1978. A number of hundreds of hostages are taken, both native and from the European population. The French, with American logistical support, decide to go in there on their own. Article 51? Well, not in the usual sense, and the interests of the French state were not at stake, just people were at stake, some of whom happen to be French. The UN Security Council was not convened. There wasn't even any time to do that. It was really a spur of the moment thing.

Did anybody give us flak? A little bit; the Soviets were not too happy, but no, we didn't get flak because ex post facto, it was demonstrable that there was a true humanitarian emergency.

That is very different from let us say in the NATO strategy, sure, it is better to have UN Security Council approval, but it is not absolutely necessary where you are, in effect, saying that the exception voids the rule. No, you don't mention the exception. You state the rule, and as is the case in life, if an exception arises, you have to be in a position to justify the exception. You don't simply cut

yourself down by eliminating the rule by putting it at the same level as the exception.

Performance; a lot of focus on new threats, Jim, you made, and you were quite right and we all did so. But it is not only the new threats which have arisen; it is also the change terms of doability of stuff, to use a Rumsfeldian word. Foreign intervention never was particularly easy. Forces of nationalism in Vietnam, for example, were a big problem. It was a very large military force. It wasn't simply communism.

But new factors have arisen, and I would single out two. The first one is — this may strike some people here as a paradox or as something which can be definitely argued about — there is less asymmetry, not more asymmetry, in the conduct of warfare and the use of force. More people are acquiring weapons of mass destruction of the sort which a number of industrialized countries already had. The difference between having the Gatling gun and not having the Gatling gun at the end of the 19th Century has been very largely erased. Ask the guys who have to run the tech war in Iraq between the increasing sophistication of IEDs on the one hand and the targets of the IEDs. Technology spreads a lot easier. Knowledge is much more available. The financial and education barriers are much lower than they used to be in this respect even 20 or 30 years ago. What Alfred said about small arms also I think makes the point powerfully. In other words, irregular or unconventional or insurrectionary warfare of the sort we had to deal with Vietnam or Algeria 20, 30, 40 years ago, all other things being equal,

has become more difficult because of greater symmetry, not more difficult because of greater asymmetry.

The second big change in doability is all of us in the industrialized world — well, not all of us, the Japanese aren't there yet but the Europeans, nearly all, and the Americans — have, after the Cold War, gone into force projection. Force projection is priority in military terms. This makes a lot of sense, obviously since the Soviets are no longer in the middle of Europe. Force projection is expensive. It means going professional. If you are professional, you are competing on the labor market. The labor market in our countries is not at the same level as in Bangladesh or in Sub-Saharan Africa. Therefore, our soldiers are increasingly rare because they are increasing costly. America could mobilize 500,000 soldiers in Vietnam. For a war which has been presented at least as important if not more important than Vietnam was in its own time — that is the war in Iraq — you can mobilize just barely, you can sustain just barely 140,000 soldiers. In the case of the Europeans, it is exactly the same.

This has, for example, a consequence on UN operations not to mention other interventions. In 1993-1994, when we had the first big spike in the number of blue helmets, about 100,000 UN soldiers, more than half came from the industrialized countries. Today, we have a new spike, about 90,000, a bit more than 90,000, less than 10 percent of the blue helmets from the industrialized countries. Now, they come from Bangladesh, India, Pakistan, you name it, and that is a very deep trend.

Bottom lines, very quickly; bottom lines, if you are operating with rules, and we now move from the reality back to the rules. Even if you have rules, if you have a mandate, neocolonialism, that is putting in large numbers of soldiers and administrators for a long time to deal with a problem is a decreasingly sustainable option. We have been able to do so. We, the Europeans and, to a lesser extent, the Americans have been able to do so in Bosnia and Kosovo but because it is so bloody small. Kosovo is the size of Rhode Island. Afghanistan is the size of Texas.

We are aiming — we, NATO — are aiming with 40,000 minus soldiers to do in Afghanistan what 30,000 soldiers barely achieved to do in Kosovo and what 110,000 soldiers from the Soviet Union, with somewhat comparable war aims I would add, did not manage to do in Afghanistan from 1979 to 1989. That is very bad news for contingencies like Darfur. Darfur is also the size of Texas. Whether there are any boots left in Britain, France, the U.S., Germany to send to Darfur, well, there may be a few but you will have to look very hard to find them.

If that is the case, it is not the rules which are going to have to be rewritten. Duty to protect, responsibility to protect is excellent. All of you who mentioned that, you are absolutely right to mention it, but it is much more about organization. How do you organize the interface between the high costs, small numbers, high firepower assets of the industrialized world with the relatively cheaper, often high quality I would add, military manpower from the Third World? Now, we have some beginnings of that, for example, in the Congo in

2003, a quick in, quick out European Union operation followed by a much larger UN peacekeeping operation on the basis of the rules, Security Council resolution, all in very quick time, I would add.

This is the sort of stuff I would argue the UN folks are going to have to be thinking much more about in the future than about rewriting the rules to protect, let us put it that way, the responsibility to protect.

The second category is if you operate without rules, that is without a mandate, as has been the case with the Americans in Iraq, well, if you can avoid going somewhere where you haven't been invited, avoid going there. If you cannot avoid going there, you have to try to make it short. To take an extreme example of brevity, the Israeli attack against Iranian nuclear reactors. Israel said Article 51. Israel was roundly condemned by a unanimous Security Council. Unusual, the Americans voted against the Israelis. It was over even before it began, and it was successful. So it didn't really pose a problem.

If you have to stay for a long time, you better be ready to pay the price, hundreds of thousands of soldiers, massive brutalization of these soldiers who have to resemble the enemy they are fighting. We all know the Battle of Algiers. You have been fighting it now for the last four years, three years.

Rules are indeed essential, but the reality constrains us — Ivo, this is what you were suggesting at the end — much more considerably than one would want them to constrain us, even when one is considering rules-based operations. This obviously also applies to what we will talk about in the closed shop this afternoon

on the nuclear side and proliferation aspects.

Thank you.

MR. DAALDER: Thank you, François.

I think actually that nicely brings in one element that too often gets neglected which is this issue of capacity to intervene. If you don't have the capacity to intervene, it doesn't really matter whether the rules tell you that you can. I think this is the cry we heard and continue to hear about Darfur, and there is an issue of capacity. There is an issue of will, and there is an issue of capacity. The focus that we have had in much of our discussions, both today here but also in the days beforehand, is this link between effectiveness, the ability to do what you set out do to, and the legitimacy of that action. One of the paradoxes that came up in our discussions with the South Asians was we found in most places where effective action is possible, legitimacy may be difficult to obtain whereas in those where legitimacy is high, it may be very difficult to act effectively, in part because the capacity isn't there.

I want to put forward two propositions or two issues that we might want to discuss further. One is on the rules or on the norms. I found in the discussion so far, we slipped very nicely from a general discussion about whether we should think about more normative circumstances for the use of force to narrow that down immediately to responsibility to protect because we all agree on it. As you said in your last point, there are perhaps other norms that are being violated that may require enforcement these days. I note that since we had for the first time in

our history, a country openly demonstrating on Sunday that it is violating a fundamental norm to which itself had subscribed — that is North Korea not only having left the NPT but then exploded a nuclear device or at least one thinks exploded something that it claims to be a nuclear device — does raise the question of the norm of nonproliferation in that sense.

Linked to that is how useful is it to have real norms if you are unable or unwilling — and the two are not necessarily the same, though they can be — to enforce them. That is the larger part with regard to our responsibility to protect. We see in Darfur that we have a norm of the responsibility to protect, that the state that is failing abjectly in meeting that responsibility, that now the international community is being called upon to take that responsibility upon itself and is unwilling and/or unable to do so. How useful is it to have the norm of responsibility to protect if at that point you can't do anything about it? The same, it seems to me, is now rising in the nuclear area. It may well arise in the future in other areas.

The question of the link between, as François put it, performance and rules, capacity, effectiveness, and legitimacy is very real. Perhaps we can spend a little time looking at that. How useful, to take the direct question, is it to have the responsibility to protect endorsed by 190 plus member states of the UN and then see it fail so abysmally in the question of Darfur?

MR. HEISBOURG: Let me have the first stab at that. The paradox is that North Korea could perfectly well make the case, and I think they do make the

case, that they didn't actually violate any particular norm. They had signed the NPT. They withdrew from the NPT according to the rules existing within the NPT for withdrawal. They did so after having indeed been threatened directly by a major power, the United States of America, and therefore, the vital interests aspect of the withdrawal from the NPT was arguably fulfilled. That is the North Koreans can even make an honest case that their withdrawal from the NPT was not done in an opportunistic fashion but that it was a legitimate response to a threat that had been made against them. That is the rules at least according to one way of interpreting them, and unfortunately, I think that interpretation is pretty close to the mark.

The reality is that the behavior of the North Koreans is viewed by the international community as dangerous, destabilizing, et cetera. Otherwise, the Chinese would not have said what they said; the Russians would not have said what they said and so on. If anything happens vis-à-vis North Korea, it will not be because they would have broken the rules. It will be because they are what they are, doing what they are doing, that is making a menace or being seen as making a menace of themselves.

In terms of rules, no, we are not implementing a norm here. We are doing something else. We are trying to prevent. We are trying to limit the consequences of the dangerous behavior of a member of the international community.

Second point, responsibility to protect; there was a great famine in North

Korea. When was it? Eight or ten years ago, and ever since, there has been a very dire humanitarian situation. Nobody really seized upon that as a motive for intervention in North Korea, not to my recollection. I don't think either the Clinton or the Bush Administration did so or any other country or administration that I can think of.

Would it have been wise to do so? I am not sure because, of course, North Korea would simply have had an additional reason for getting what Saddam Hussein did not get, that is the protection of nuclear deterrence. If you are threatened with regime overthrow, even if it is for humanitarian purposes, you are still threatened with regime overthrow. And so, the consequences of that threat may be not the ones we would have wanted to see happen. So implementation of RTP, responsibility to protect, is something which should not be done according to one size fits all. It should be case by case.

MR. DAALDER: Jim?

MR. STEINBERG: I find it deliciously ironic, that François is arguing the realist and Anglo-Saxon approach to the question and I am going to argue the Gallic.

MR. HEISBOURG: This is why we have fun together.

MR. STEINBERG: My problem with that version of it is that rules both constrain and power, and while they don't guarantee a result, I do think they change the terms of the debate. There is an important question. There is a factual one or legal one with respect to whether North Korea could withdraw when it was

in violation of the NPT, whether you are entitled to withdraw when you are actually in violation. A bunch of lawyers would argue that you can't until you cure the violation.

MR. HEISBOURG: That is what lawyers are paid for.

MR. STEINBERG: But that is not the point I want to make.

I do think the problem is going to be — this is I think been part of the problem with the Bush Administration — that if you decide that the rules depends on a unique set of circumstances, the character of the regime rather than broad-based rules, I think the ability to generate consensus around action is hard. It is not impossible, but it is hard. The great debate with respect to this particular question has been: Do you have broad-based clear norms about what countries can and can't do with respect to developing nuclear weapons or do you say, well, it is okay for countries as long as they are good countries and not okay for countries as long as they are bad countries? Especially the Iran debate, I think has been muddied by the question of whether there is a set of norms that are generating the action in the Security Council or whether this has because Iran is on the Axis of Evil because one man's Axis of Evil is not necessarily another man's Axis of Evil.

Certainly, just in reporting on our discussions, there is a deep division between those who believe that you should just judge the actual threat. Some countries do things that do or don't particularly violate rules, but they are not particularly dangerous. Don't worry about it. Countries may live by the rules,

but they are dangerous and you have to do something about it. My own view is that is not a sustainable long-term proposition and where you end up is everybody questioning each other's motives and it is destabilizing the international system.

While the norms don't guarantee performance, they do provide a basis for generating both a broader-based consensus and at least stimulating the debate. It is definitely a glass half full, glass half empty thing, but I still that there is a need for it. I think one of the lessons of the Iran debate is that if we had greater clarity of consequences attached to findings by the IEAE of violation, that it would be easier to move the debate forward and not have it turn on whether Iran is a rogue state or not. That is why I still think and I completely agree with the practical description that François has characterized about how we think about these things, that there is a significant component to having the norms there that doesn't solve the fact that they can act as a stimulus but not a guarantee of action and, in fact, states will respond to varying situations depending on the perceived actual threat as opposed to whether a norm has been violated. We shouldn't expect more out of the system than that, but I think we shouldn't expect less out it either.

AMB. DUBE: I think if we talk about rules, whether it is RTP, in particular, the trouble is that, certainly from my experience in the United Nations, is that rules are interpreted so liberally and within my context of an everyday basis, that countries can say I know the rule says this, but my interpretation of it and the way I justify my actions is this way.

I think basically there should be an understanding that there are certain

norms of international behavior. Norms, to me, are the basis on which we can act

in this context. Let us use a concrete example. Who really in this world today

can deny that the international community failed totally over Rwanda? The

genocide in Rwanda was a blot on our international obligations to this day.

Everybody talks about it, and nobody can deny that. What happened was that

rules and procedures were used to delay acting in the manner that we should have

acted as the international community. I think after that lesson, there is any

question, any discussion about saying you can sit back and watch a situation like

that develop again without realizing or remembering the consequences of what

happened in Rwanda.

Therefore, maybe I am a permanent optimist in that I am hoping with that

experience, it is clearly understood everywhere that situation where there is a

possible genocide, the world must act and act fast. That is basically, to me, the

starting point.

MR. DAALDER: Thank you.

Edward?

MR. MORTIMER: I am just not convinced. Was that what the argument

was actually about in April of 1994? How many people explained their

reluctance to intervene by saying I can't possibly contemplate infringing the

national sovereignty of Rwanda? I mean I may not have been paying attention,

but I didn't get the impression that was what the debate about.

Basically, people judged in terms of their national interest. Those with a lot

of military capacity saw something very unpleasant happening in a faraway country of whose affairs they knew nothing, and they somewhat had made what they saw as the mistake of putting people there on the basis of a quite different assumption which was there was a peace agreement and having a few blue helmeted people would help the parties to implement this peace agreement. Some of them got killed, and a lot of the rest were then taken out. What is often forgotten is that quite a lot remained, mainly Africans actually, and accredited themselves with great courage and honor. I am not sure that it was the rules that made a difference. I think it is true that this episode has affected the debate that we have had about the rules since.

To come back to Ivo's question, if it is a question of willingness or capacity, and I think François and I are talking about the same thing. The reason that people aren't willing is because they don't feel they have the capacity. On the other hand, if they felt that their national security was acutely threatened, they might find they had more capacity. Some of us capacity to send troops to Iraq and, of course, that means we have less of it to go to other places. It is a question of priorities really. That is why I think you can't complete disentangle willingness from capacity.

But one of the elements of willingness, I think, is this feeling of legitimacy, and it is not just because we are all law-abiding citizens who like to think of ourselves as doing the right thing but because we know that if we go somewhere where the legitimacy is highly contested, then the chances of our being able to

achieve our objectives and not maybe incurring worse consequences as the ones

we are trying to avert will be very severely reduced. I thin this is the point that

François was making, and I completely agree.

MR. DAALDER: Both Jim and François, a brief comment, and then I am

going to open up the floor.

MR. STEINBERG: I basically agree with Edward's point about Rwanda.

Clearly, nobody was hiding behind Article 24 when they didn't intervene in

Rwanda, but I think there was also less of a debate, certainly in the United States,

in the absence of that being out there. If there was a challenge of if you have an

agreed principle that in the case of genocide, you are supposed to do something,

you would have had a debate here which didn't happened because it frames the

debate. That is why I talk about rules both constraining and empowering.

While it is not a huge consolation to people in Darfur that we now have that

debate but haven't really stepped up to it is still a very different environment than

the one that existed in 1994. Whether it would have turned out differently, I don't

know, but I do know for sure that it would have been much harder for our

administration and I think for others not to have done something in an

environment where people said: Now, wait a minute; duty to protect, if ever there

were a case, this is it. That is the place where I do think it conceivably would

have changed the outcome but certainly would have changed the way the issue

was thought about.

MR. DAALDER: To the extent there was a debate in 1994, it was over the

Genocide Convention and whether you needed to do anything. Again, there was a debate, but it was about genocide and it was rules forcing at least people to talk about it to reinforce the point.

François?

MR. HEISBOURG: Quickly, first of all, I agree with Jim that a responsibility to protect does indeed create a stronger basis, a stronger presumption for action if it is possible in cases like Rwanda. However, in the case of Rwanda, I am very blunt; those who have could have done it in good time didn't want to go there, and that is the long and the short of the story. They would not have risked a Russian or a Chinese veto. The resolution, if it had been adopted in good time — there eventually was one but much too late — would have resembled the one which mandated us to intervene in Somalia in circumstances which were rather similar. We didn't have RTP at the time of Somalia. We had a country where we had a civil war and with people getting hurt. Somehow, we didn't find it complicated at all at the level of the Security Council to intervene there.

In the case of Rwanda, we all had our national excuses for not going there. We had no mitigating circumstances, and it was not the lack of rules in the rulebooks, if I can put it that way, which prevented us from operating even if the current rules would make it actually even easier.

Second point, Korea; I was being a bit to kind to the North Koreans. I accept your point, but still, it is not what you would call a clear-cut case of

violation of a basic major norm, et cetera. The saving grace is, of course, that the Security Council does have in its gift to decide whether there is a threat to international peace and stability and security.

I mentioned Somalia. Somalia was actually the first resolution of its sort. Threatening international peace and security? Bullshit; there was no threat to international peace and security. There was a civil war within Somalia which had very little influence, another thing which was happening around Somalia, yet the Security Council used its powers and invoked Chapter 7 in order to do what we did rightly, I think, at the time in Somalia.

If we consider North Korea a threat to international peace and security, the Security Council will do so, whether or not there has been a violation of this or that aspect of nonproliferation.

The same problematic, the same issue arises in the case of Iran. Iran has not violated the NPT as such. It has violated a safeguard's agreement, pretty much like India violated a safeguard's agreement back in 1974, no more, no less. But, of course Iran is not India and Iran is in the Middle East and as nonproliferation is tottering. So the Security Council may take the view that it is necessary to be more decisive about Iran than we were in the case of India back in 1974. The legal basis is quasi-identical, but of course the circumstances and the actors are not, and that is what is going to make a difference in the Security Council.

Whether you need a new rule to do that or not, a rule saying if there is a

violation of a safeguard's agreement, that this would be sufficient cause for non-mandated foreign intervention? Of course not, it is not going to happen. The U.S. would have objected to that in the past as others will do so in the future.

MR. DAALDER: I will leave, I think, both the Iranian and North Korean debates to our next discussion because I disagree with both of your claims here comparing Iran and India and North Korea. North Korea and South Africa, being the other, are the only countries that were NTP members and then became nuclear powers. It was a remarkably important development, even though the legal framework may have allowed them to do that.

MR. HEISBOURG: South Africa wasn't, by the way.

MR. DAALDER: So North Korean is the first and only country that has left the NPT and became a nuclear power?

MR. HEISBOURG: That is right.

MR. DAALDER: That is what is different between India and Pakistan and Israel and, of course, the five.

MR. HEISBOURG: Sure, I accept that.

MR. DAALDER: Let me go over here first. If you can say who you are, who you are with, and who your question is directed to, that would be great.

QUESTIONER: Good morning, my name is Edward Joseph. I am with Johns Hopkins/SEIS.

What I would like to do is focus on the question of performance. I think more correctly, Ivo, you call it capacity.

Just a quick comment about the Balkans example contrasting with Afghanistan and Iraq; I am not sure that size is the essential distinguishing characteristic but rather the near endless acceptance of the parties in the Balkans to outside interveners. To put it bluntly, there are no insurgents in the Balkans, and there are plenty in Iraq and obviously in Afghanistan.

Really I want to focus again to this question of capacity because as both Ivo, you, and Jim know, I am sure very well, when you talk about capacity, you inevitably talk about the U.S. Who else has the capabilities? In an era after Iraq when U.S. legitimacy is so weak and is so discredited, so many principles associated with intervention, even democracy promotion, are now discredited in many respects in Europe. I would like the panel to address perhaps directly this dilemma of needing the U.S. for capabilities and yet inevitably implicating this question of an American agenda and this question of weaker legitimacy.

If I could, just a quick question for Ambassador Dube; I teach a course at SEIS on intervention, and one of the readings we have mentions, I hope correctly, that Botswana actually opposed the Kosovo intervention in the UN and obviously that was post-Rwanda. If that is correct, perhaps you could explain why.

Thank you very much.

MR. DAALDER: Anyone?

MR. STEINBERG: The obvious desire to find alternatives to unilateralism is a critical component of this. As Ivo and I have written about, as you develop a hierarchy of legitimating structures, it is a way of harnessing capacity without

asking the question of is there a separate agenda, is there something else going on.

That is why we have argued that, for example, in the case of NATO, you had a situation where you had lots of countries in NATO who had different perspectives on broader questions, but the fact that there was — grace, a little shaky — essentially unanimity in NATO made one feel more comfortable that there wasn't a separate agenda in the way that in the early days of the Balkans conflict, people wondered, well, does Germany have a particular agenda vis-à-vis the Balkans, does France have a particular agenda, does the United States. The fact that these countries which had different perspectives, different histories, but all reached the same conclusion was one. That is why we argue, at least as a concept, for the idea of using a community of democracies on the theory that lots of governments with accountability that have to explain to their people reaching a similar conclusion about the use of force is a way of — I am dealing with the point that Edward was talking about — when you go in, to have greater credibility, greater legitimacy.

I think for the United States, the clear answer to this is we are indispensable as part of the capacity, but the more we do this in the context of other decision-making processes, the more I think people will see it as acceptable. Under that framework, it should not be problematic for the United States even with our somewhat tarnished current perception to be able to be part of this as long as it is not something in which somehow this is seen as the United States being suspect about its motive.

MR. DAALDER: I would just add one footnote, agreeing completely, but it is not clear to me the United States, coming from where François is, in fact, now has the capacity. Quite apart from whether it had the legitimacy, its capacity is severely constrained. One of the sobering lessons of what has happened in the last six or seven years is it is not clear that international community at large, with the U.S. or without the U.S., has the capacity to deal with these kinds of problems.

I will just raise the issue of Darfur. Once you stop the killing, then what? That doesn't mean we shouldn't stop the killing. It does mean that you need to raise that question.

You know the Balkans better than anybody else. Last I looked, which was last week, there was an election in Bosnia which reaffirmed all the murderous tyrants who had been running around that place for the last 20 years back into power. Ten years later, we are still there. How long are we going to be there? So I actually think there is a larger issue when you think about capacity of whether the international community, even when it is committed, even when it is willing has the capacity of building societies, rebuilding societies like that from the ground up.

MR. HEISBOURG: Building, Ivo, on what you have said, the difference, the ratio of military and administrative presence to size and population is relevant. Insurgents are not a given. When the Taliban were overthrown in Afghanistan, they were overthrown. They were chased out, and we took over. The current

insurgency was definitely not at the level it is today two or three years ago. It emerged. It developed to a very large extent because the impossible did not happen. The impossible was what George Robertson said shortly after the overthrow of the Taliban. He said if we want to do in Afghanistan what we did in Kosovo, we would have to send 700,000 soldiers. Of course, that was never an option.

Although when you think about 30 or 40 years ago, yes, 500,000 Americans in Vietnam and 400,000 French in Algeria, but it is no longer an option. It is simply no longer doable.

As for Iraq, insurgents? Insurgents? I never heard about insurgents in May, 2003. I heard about the liberation of Paris. I heard about stuff happens, of looting maybe, but no, the insurgency was to a very large extent the product of the inability to impose colonial rule of the sort that we have imposed in Kosovo.

The 100,000 Serbs who remain in Kosovo have not become insurgents to a very large extent because they are simply not in a position to play that role. I would rather fear the opposite, that is if things go wrong in Kosovo in the next few months, that we could have an insurgency on the Albanian side and that would be a problem, but at least we do have the boots on the ground.

MR. DAALDER: If you want to address the issue of Kosovo?

AMB. DUBE: Well, Kosovo happened before my time at the UN. I am not aware that we voted. You said we voted against?

QUESTIONER: According to this reading, the vote was against

intervention.

MR. DAALDER: There was no vote.

AMB. DUBE: In the General Assembly?

QUESTIONER: Correct.

AMB. DUBE: Or in the Security Council?

QUESTIONER: Yes. In other words, voting with the Russians, staying with the Russians. In other words, this reading, this one author suggested that Botswana, and the example was given as the tendency of non-aligned countries to continue to almost reflexively oppose the intervention.

MR. DAALDER: There was no Security Council vote.

QUESTIONER: Ivo, I knew you were going to say that. In other words, opposition might be a better term. This author, accurate or not, invoked Botswana as an example of reflexive not aligned opposition to intervention.

AMB. DUBE: Sorry, I am not aware of that.

QUESTIONER: I am, Professor Emeritus of International Law and Organization, Murray Waters.

I don't mean at all to demean the presentations here because I found them stimulating and very interesting, but we all know that we are dealing with human beings. One could imagine this kind of presentation at the Palais des Nation in Geneva in the 1930s. Exactly the same kind of issues would have come up. I don't think there is anybody here would disagree with the fact that we need rules. It is not a question of whether of rules are in the book. It is a question to what

extent the rules are deeply admired and believed in because the fact that they are on the book doesn't necessarily mean that they are actually believed in. They are just sort of lip service to some ideas if they are not inherently deeply felt by the population at large.

With regard to issues of humanitarian rights and violations of those, we don't have any definition of gross violations of human rights. Genocide is not sufficient because, in fact, there can be violations of human rights dealing with electoral issues as well. So we need a definition there that would be helpful.

With regard to the question of intervention because of a threat to another country's military power, I don't think we had any description or discussion here about the differences between the first strike idea, preventive, and wars that are actually a result of preemptive strikes. So we need at least some discussion of that.

I would suggest that one of the problems that we have with regard to a threat from another country, and we have seen this obviously in Iraq, is that we cannot believe always the statements that are made by leaders as to what the dangers are. So there is a lack of a mechanism here of trying to find to identify whether, in fact, the challenges to a state, the threats to a state are legitimate. At least if we had such a mechanism and the rules in terms of when intervention would be appropriate, barring the inaction if there were inaction on the part of the Security Council, then at least we would be moving forward.

What I guess I am really coming to is my view that the idea of rules has to

be seen as part of a whole development of human thought. We need to begin to absorb the need to clarify rules and to establish them, so that they are widely held. Though there will still be violations, there is no question, unless they are widely held and believed in, there is no question, on the other hand, that ad hoc interventions will take place with regard to any concern for rules or regulations.

MR. STEINBERG: I think the nexus that everybody has been talking about here is around your comment which is that rules are meaningful if they are enforced and they are enforced when people have the will and the capacity to do it. While some of us come at it from the rules and working down to the will and capacity and some of us start with the will and capacity, they don't exist if they are not, in fact, enforced. Therefore, both the capacity and the willingness ultimately does become the test and it is a proxy for how heavily they are felt because if people really believe in them, they are going to be more willing to commit resources and take political risks and do those things.

So I think I basically agree with your proposition, and I think most of what the panel has been saying here is really in support of that which is that the result of these discussions have shown how deep the link is between what François calls the reality and the role of these norms. But they are self reinforcing in both directions, and I think that is why you can't ignore either the capacity as being essential to having any value to the norms but also having the norm as a way of trying to be a motivation to generate capacity.

MR. DAALDER: The gentleman right over here?

QUESTIONER: Yes, I am Joel Wishengrad, World Media Reports/WMR News.

With respect to what this panel has discussed today, many of these hotspots apparently have grown from religious or ethnic strife, and we talk to governments and not to the entities. Now in the last half-week, we have seen where former Secretary of State Baker has talked about a commission, for instance, to look at the Middle East and Iraq, and we have Bill Gates, Bono, and others that are looking at humanitarian needs in Africa. But are we centered on putting together something that is proactive to if we see something develop to end that or to cut it off at its beginnings rather than have it go down the line and become a potential problem?

Now, for instance, in Iraq, we have seen the various clerics fighting amongst themselves, Sunnis, Shi'as, and others, and the institutions that could be doing some things proactively maybe aren't. Directly next door, for instance, is the Carnegie Center for Peace. Do some of these institutions that could handle this effectively in the 20th Century, are they are capable again of handling it now in our 21st Century?

MR. DAALDER: Edward, you mentioned the importance of prevention until it is too late.

MR. MORTIMER: Prevention is ostensibly, at least, the main function of the United Nations. It is supposed to save humanity and all future generations from the scourge of war.

Of course, there are also some problems about prevention. One is that you know when you have failed, but you never know when you have succeeded. The other is that it entails getting people to change their attitudes, policies, priorities as a function of essentially hypothetical circumstances. If you go on like this, you are going to get into a very serious conflict. Well, that is my opinion, but it may not be and usually isn't the opinion of the people I am trying to convince. So, while it is a wonderful idea, it is extraordinarily difficult to put into practice.

That doesn't mean we are not trying. Actually, a lot of the peacebuilding and even so-called peacekeeping work that we are doing around the world is actually prevention because what we are trying to do is prevent a recurrence of violence, but we are usually not given the chance to do the kinds of things that you do which range from strengthening state institutions, the judiciary, having electoral advice, doing census. There are a whole range of things. I think in this city, it is often called nationbuilding. Since we are the United Nations, we are a bit squeamish about calling it nationbuilding, but we call it peacebuilding. It would be a frightfully good idea to build peace in that sense in a lot of countries before there was a war. It would probably be easier and more likely to succeed and cheaper, but people tend not to believe they are living in a pre-war situation until the war has actually happened.

Then, of course, you can say that a lot of the development work that we do is actually preventive because a country that is developing in a healthy way in which people have expectations of their life improving from one generation to the

next and no major group of the population feels that it is being excluded from that or victimized, these are places where conflict is less likely to happen and the need for intervention in the sense that we have been talking about is less likely to happen. So there are all kinds of reasons why it is good to do more of that.

But it is not often easy to make the case because it can sound very self-serving. Oh, you want a lot more UN bureaucrats. You want to be nannying all these countries, having large missions with people driving around din white vehicles. Why not leave them to get on with it? Indeed, very often, I am sure the things that we do are not actually achieving their objectives, but it is probably better to try than not to try. Anything that you as the public can do to strengthen the support in governance for these kinds of long-term preventive activities would certainly be extremely welcome.

AMB. DUBE: I agree with my great communicator here from the United Nations. I think at the end of the day, when we talk about these issues, as I was listening, it occurs to me that we haven't talked much about the role of civil society in peace and in conflict prevention because, you see, people actually want to see. Ordinary people want to believe, for example, that the United Nations is there to protect them. I get these questions everywhere I go in Africa. What is the UN doing about Côte d'Ivoire? What is the UN doing about Liberia? That is what they believe. The UN has the capacity, the capability to do so. They don't say to me: What is your Government doing? It is: What is the UN doing?

Indeed, I think that there needs to be a greater debate about this interface

between the various institutions, the UN, maybe the Carnegie, whatever, and civil society. What can be done to bring this debate to the fore and maybe even come up with some solutions to the issues that politicians and diplomats and academics have failed to solve?

MR. DAALDER: Thank you.

One last question, Gary, and then we will close it up.

QUESTIONER: Thank you, Gary Mitchell from the Mitchell Report.

As I have been listening this morning to this sort of ping-pong discussion about where you start on all of this, I must say I was reminded of the old saw about the role of the chicken and the pig at breakfast, that the chicken is interested but the pig is committed, and that what makes us, or any Nation for that matter but us, committed is when you have the intersection of two things, national interest and national capacity.

I would argue that when the declaration of the Axis of Evil was made in January of 2002, that there were three targets. Two were deeply interesting to us, Iraq and Iran, oil. The reason I would argue that we ultimately picked Iraq is the same reason that a lot of college athletic directors try to find somebody outside their conference when they have an open date. We knew we could beat them, and we didn't think that was the case in North Korea and we didn't necessarily think that was the case in Iran.

So I won't even try to turn this into a question. I just wanted to make that observation.

MR. DAALDER: Part of the national interest, part of that equation, what is the national interest, in and of itself, is a highly contested concept within the international relations literature and certainly within political circles. Part of what rules and norms are about is to say that upholding rules and norms even when it is in faraway places is fundamentally in your interest because what if it happens that the rules and norms get violated and it does affect you directly. Don't you want to have others with you at that point? The only way to do that is to have been there when the rules and norms were violated in a particular place where it may not have been closely tied to you.

An example, an obvious one, is 1990-1991 and the Iraqi invasion of Kuwait. Here is an example of an international community deciding that even if their national interest wasn't directly involved, they had to be part of the grand coalition to do something about it. Oil made it a little more complicated about what your national interest is and is not about, but if you look at that grand coalition, a remarkable coalition, the United States didn't pay a penny for its participation in that war because other countries were willing to pay for it.

MR. HEISBOURG: It made a profit actually.

MR. DAALDER: A small profit.

MR. HEISBOURG: You deserved it. You deserved it.

MR. DAALDER: A norm was reinforced by the action. For example, on the responsibility to protect issue, it is very easy to say — as was said, frankly, in 1994 — really horrible but really not in my interest. Part of what the

responsibility to protect tries to do is say, no, in fact, that rule is so fundamental, it is in your national interest to do something about it. That is what, I think, the debate is about; whereas the old-fashioned debate of we only use force when it is in our national interest, that one, we are moving away from that. That is what has been happening in the last decade, and that is what makes this interesting.

Some concluding thoughts? We have said most of what we wanted to say. Jim?

Well, let us leave it here.

MR. MORTIMER: I can just pick out one thing you said because it is a favorite saying of Kofi Annan. We have to get people to think in a way that the global interest is the national interest. I mean one thing that 192 member states of the United Nations have in common is that they are all living on this same planet. In fact, I think you can make a very strong case that there are more common threats, more common problems, more common interests, more need for common solutions and common strategies now than there were in 1945 when the UN was set up. Therefore, while it is very difficult because you are always more aware of the things going on in your immediate environment and the things that affect you directly, the case that actually you will be affected even if people are allowed to massacre thousands of miles away is easier to make today than it was 60 years ago, and I don't think we should give up.

MR. DAALDER: I think that is an excellent point at which to end what I thought was a very good and thoughtful and in-depth discussion and for those of

us who now go into our conference room, a very, very good start.

To make that possible, I want to thank the panelists — Jim, François, Alfred, and Edward — and I hope you join me in thanking them. Thanks.

(Applause)

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