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A RATIONAL INTERNATIONAL PETROLEUM REGIME FOR THE 1990s

Edward L. Morse*

I was asked by the organizers of this conference to paint with broad strokes the major features that might characterize the international oil industry for the remainder of this decade. Having learned that I also have roots in the Tulsa area and that my children spent some of their happiest and most formative years in school here, they also wondered whether I would be able to bring any good news to the shrinking circles of what once had been deemed the "Oil Capital of the World." If I saw a gloomy outlook, I could be tempted to tell you what many of you want to hear and quickly leave town, retreating to my offices half a continent away. But I truly do not have to worry about that because I believe that the years just ahead are in fact going to be good ones as will be evident from my message for the day that will start and end on very high notes.

Let me begin by asserting that the collapse in natural gas prices this past winter almost certainly represents the last gasp in the dying contraction of the long downward spiral that the oil and gas industry largely inflicted on itself. That contraction began just after oil prices peaked in the late summer and early autumn of 1980, a dozen painful years ago, in the aftermath of Iraqi President Saddam Hussein's invasion of Iran.

Why do I believe this to be the case? Evidence for this view is, in my judgment, overwhelming. But given the time limitations associated with a luncheon address, let me focus for a few moments on the most significant evidence. First, world oil demand has recently reached unprecedented levels. In 1991, world oil demand reached a record level of 66.4 million barrels per day (bpd) despite the recession in the United States that wiped out some 700 thousand bpd of our national petroleum

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consumption. Global demand exceeded the previous 1979 record level by only a modest amount, but outdistanced the 1986 level by about 5 million bpd.

The good news is that oil consumption, which has been rising at a rate of two percent per year for the last half decade, is not going to stop increasing, but may grow even faster for all sorts of reasons; most notably, the increasing appetite of the world's young population for driving automobiles. People are getting richer and populations more youthful, not only in Asia, which has seen gasoline consumption rise at astonishing rates in recent years, but in other places as well—Latin America, for example. For the remainder of this decade, this phenomenon should spread to Central and Eastern Europe to fulfill years of pent-up desires, and to the United States as well, as the children of World War II baby-boomers create a new bulge in our population. Note that we are talking not only about very large numbers of people, but also about a population whose appetite for driving a lot of miles per year is not damped by high fuel costs.

Additionally, today we are living a world that has experienced precious little investment in energy savings or alternative fuels. This is a sharp contrast to the period of escalating fuel prices in 1973 that spurred investments in nuclear power that practically wiped out the role of fuel oil in generating electricity. With practically no investment in energy savings, we are in a much different position than the period from 1979 to 1985 when world oil demand fell by 5 million bpd largely as a result of investment in energy savings.

In short, the rest of the 1990s will be a terrific period of growth in oil demand, barring a global economic disaster, essentially because no substitute fuel is on the horizon, especially in the transportation sector. That does not mean natural gas will play a back-seat role. On the contrary, in many parts of the world, the role of natural gas as a primary energy source will overshadow that of oil.

But enough on the demand side, lest I not complete the story. Let us turn to the even more compelling evidence of a major boom for conventional energy by focusing our attention for a few minutes to the other half of the energy balance—oil supply. The Organization of the Petroleum Exporting Countries (OPEC) has been meeting this winter in Geneva, wrestling with the same problem that confronts the United States and Canadian oil industries—prices as low as those that prevailed in the 1960s in real terms. But even worse, here in North America drilling

activity plunged to a fifty-two year low. Even so, OPEC's task is far less daunting today than it was in the middle 1980s. Why do I say that? Let us take a look at the numbers.

Recall, when we discussed demand I noted that oil consumption reached not merely a six-year peak, but a new record high in 1991. Moreover, it will set another new mark this year. Oil production did nearly as well in 1991, falling just a hair short of the record 65.8 million bpd set fourteen years ago. In 1990, output flowed at a rate of 65.4 million bpd. This year could well reach a new record. But sheer numbers are not that important. Rather, we must ask, how does actual production compare to total production capacity. The story told by that comparison is truly staggering. In 1985 and 1986, when oil prices around the world took a nose dive, the world's surplus production capacity stood at about 14 to 15 million bpd, all of it shut in by OPEC countries. At the time, that number was fully half of OPEC's total production capacity and nearly one-quarter of the world's capacity. How that happened is a tale worth thinking about, but we do not have time to do it justice today. Suffice it to say, the surplus was a result of the compounding of two factors: (1) tight markets and high prices in the 1970s that created nearly unbelievable incentives to invest in oil and gas and (2) resource nationalism of the same decade that froze big oil companies out of the places where cheap crude could be found—Saudi Arabia, Kuwait, Venezuela, Algeria, Iraq, and Iran—and led those companies to accelerate their efforts to find oil elsewhere. And find oil outside of OPEC they did, with some 13 million bpd of new source crude entering the world market between 1971 and 1985 from Siberia, Mexico, the North Slope, the North Sea, and other places where oil was not expected to be found.

But, the abundance of surplus production capacity has for all practical purposes dried up in the very short span of seven years. It has dropped from some 14 or 15 million bpd in the mid-1980s to practically nothing today. It is dwarfed by a previous surplus capacity of 9 million bpd at the time of the Iranian Revolution when the shutting-in of Iran's output led prices to double.

Prices may be low today, for reasons that are not entirely easy to explain. But little doubt exists that markets will get tighter and tighter in very short order, even in the unlikely event that new supplies from the Middle East remain stable. Tight markets in all likelihood could lead to prices that double in real terms during this decade—and that is almost certainly an understatement.

How can the oil bubble burst so quickly? The answer is not all that hard to understand. We have just recently completed a decade of declining petroleum prices that caused a precipitous fall in cash flows for oil companies which translated into lower investments in acreage acquisitions, geological studies, exploratory drilling, and development. The world has been living off inventories from investments made in years, even decades, gone by. That scenario is especially true in what until recently have been the two largest producing countries in the world—the United States and the former Soviet Union. Now, the inventories are depleted and can be replaced only by new investments.

Let me give you some illustrative numbers. In 1981, the year when oil prices and upstream investments both peaked, some \$100 billion were spent in areas outside the former Soviet bloc on new acreage, geological studies, wildcatting, and new production facilities. By 1987, investments fell significantly, and last year, after a ten percent growth, recovered to only some \$52 billion in nominal terms. In 1981 dollars that would be about \$25 billion, or one-quarter of 1981's record level expenditures.

Depleted inventories have contributed to a decline in the world's ability to produce oil. For example, the former Soviet Union's ability to produce oil fell from 12.5 million bpd in 1988 to barely 10 million bpd today. Likewise, its exports have fallen during the same period from 3.5 million bpd (making it the second biggest exporting country) to perhaps 1.2 million bpd. The story in the United States is the same and the numbers are only slightly better.

In addition, capacity has disappeared because it was laying idle and was poorly maintained, especially in the Middle East. Saudi Arabia's 12 million bpd capacity in 1981 fell to barely 7 million bpd at best by the end of the decade. Today, after billions of dollars of new investment, it is still short of 9 million bpd and is scheduled to reach only 10 million bpd in a couple more years. Iran's 6 million bpd capacity was reduced to 2.5 million bpd by revolution and war, and remains at under 3.5 million bpd today after a long and expensive struggle to increase it.

Of course, war played a role in reducing oil production in the Middle East, especially the Gulf War, which in a brief few weeks destroyed much of the 6 million bpd that Iraq and Kuwait previously produced. Now, one year later, the combined output of the two countries is perhaps 1.4 million bpd, one-quarter of their pre-war outputs. In addition, prospects are that Kuwait's flows will soon plateau for a while and that Iraq

will be unable to boost its production very much, even if the United Nations lifts its embargo.

In short, from a supply perspective, we may be near 1978's record levels. But do not expect much more too soon. Even in 1978, when OPEC was producing 30 million bpd, in a pinch it could have produced above 35 million bpd. Today, OPEC's flows are only a bit over 20 million bpd, but OPEC would be hard pressed to quickly increase production by more than perhaps 1 million bpd in times of increased world demand. That, in a word, is why oil prices must go up soon; and when they do, the rise will be substantial.

But that is only half the tale I want to tell today. While what I have been saying thus far has been good news for producers in Oklahoma and Texas, my next topic will be good news for others as well, especially perhaps, lawyers and legal scholars. It is at this juncture also that I want to make good on my promise to talk a bit about the main thrust of this symposium—the rule of law in the international oil sector.

Let me start with a contradiction. I know a lot of people make a decent living dealing with legal issues associated with oil and gas investments, transportation, trading, refining, and the like. But the contradiction, I would assert, is that of all the major sectors of the international economy, oil and gas stand alone in that for these commodities, and for them alone, no widely accepted framework of institutional rules and regulations exists, no road maps if you will, providing a basis for growth. Rather, the law that applies in this non-regime is closer to the law of the jungle, or more appropriately, to the atomistic nature of international society described by Thomas Hobbes some three centuries ago than to international law governing trade and investments in manufacturing, services, or agriculture today.

Many reasons exist for this state of affairs. Although we do not have the luxury of time to investigate all of the reasons, we can note that they relate to the failure of the founders of the General Agreement on Tariffs and Trade (GATT) to seriously consider including oil trade in the scope of that treaty. More importantly, the reasons for the multifarious state of international energy relate to: (1) the growth of resource nationalism following the massive disintegration of the French and British empires in the 1960s; (2) the growth of separate international norms concerning resource ownership and distribution of wealth as between industrial and poorer countries; and (3) the combination of the rise of

OPEC to prominence in the 1970s and the phenomenal nationalizations of producing properties by governments in the same decade.

We are, in my judgment, at the start of the emergence of a more rational global regime governing oil and gas investments and trade that will make the system of rules, regulations, and even laws that pertain in the decade ahead (and beyond that) better institutionalized and more widely accepted than in any previous period. The questions, in my mind, do not relate to whether this will happen. Rather, they relate to how this will happen—that is to say, whether the blossoming regime will develop organically, out of a rapidly institutionalizing common law, or whether it will emerge via self-conscious architectonics, legislated overtly by governments.

Why do I take this position? Let me explain by rapidly ticking off some rather extraordinary developments. The first has to do with issues discussed by Professor Smith this morning—the nature of resource ownership in the world. Let us take a brief look back in time. Before the oil price escalations that started in the early 1970s, there were only three non-concessionary countries of any importance in the world: the former Soviet Union, which nationalized and monopolized its oil and gas sector in 1920 as a result of a political revolution; Mexico, which did the same in 1938; and China, which followed suit after political revolution during and after World War II. In the 1970s, these three were joined by Venezuela, Algeria, Saudi Arabia, Kuwait, Iran, and Iraq. At the end of the 1970s, all of the non-concessionary countries had a combined potential to produce about 43 million bpd in a world then producing 65 million bpd and capable of producing perhaps 73 million bpd. Their share represented about eight percent of total commercially proven oil resources, sixty percent of output potential, fifty-five percent of production, and some two-thirds of all oil actually traded across national borders. In addition, even in most countries falling into the category of a “concessionary” regime where foreign companies could own and produce oil, the state oil company played a dominant role in resource ownership and control over production.

Now, to return to my argument: The major factors fostering the emergence of a new international petroleum regime are the decline of resource nationalism in key developing countries (for reasons we barely understand), and the denationalization or privatization of the oil industry in country after country that previously controlled and monopolized

their petroleum sectors. We have seen this morning how this phenomenon is at work, in fits and starts, in the former Soviet Union and Mexico. China, of course, opened itself up more than a decade ago. Algeria did the same less than five years ago and recently accelerated its move toward private capital. Venezuela and Iran are experimenting with finding the right formula. It looks to me as though by year-end Kuwait may well invite its former concessionaire, British Petroleum, back to overcome some major difficulties in rebuilding its oil sector. As for Iraq, little doubt exists that some day, should it ever again hope to be a major player in the oil industry, it will have no choice but to reopen itself on a large scale to foreign investment. The kingdom of Saudi Arabia is another story. I believe that there, too, state monopoly control over the oil industry will end; first through the granting of rights to Saudi citizens to challenge the state's role, and later through the granting of similar rights to foreign joint venture partners.

But all of this discussion is somewhat of a diversion—for it is not simply the reopening of former or currently non-concessionary countries to foreign companies that is of importance in spreading our own North American and Western notions of law to the petroleum sectors of other countries. Additionally, and more importantly, it is the scale of what could happen that is instructive. And in this regard, let us focus for a moment on the former Soviet Union.

Before the Bolshevik Revolution, Russia's role in the oil industry was paramount. Recall that in 1905, when Stalin led the oil workers at Baku on a strike that marked perhaps the beginning of the end of Tsarist Russia, the country was not simply the largest oil producer in the world, but its position was such that no one has ever rivalled it—not Saudi Arabia, the United States, the Texas Railroad Commission, or OPEC. In it alone flowed fifty percent of the world's oil. The country was also the world's leader in refining technology, pipeline construction and technology, and the development of tankers for long-haul transportation.

Although, as Thomas Gochenour cogently argued this morning, the road to obtaining major foreign investments in Russia and its neighboring republics will be bumpy, the potential is enormous. Let me just mention two potentially fundamental matters. The first relates to the country's geological promise. Geologically, the area could almost certainly support twice the level of its current production. That could increase their production to perhaps 20 million bpd in twenty years. If that happens through foreign equity ownership of parts of Russia's petroleum

sector, the country would eventually be able to satisfy most of the foreseen growth in world oil demand. Second, if as I expect, other countries would follow Russia's lead and allow foreign investment on a grand scale, integrated oil companies will again move closer to self-sufficiency. That, in turn, will mean less demand for oil owned by monopoly producers. Furthermore, those countries that do not either reopen themselves to foreign investment or invest in their own refining and market abroad are likely to be marginalized as producers.

The foregoing was a long-winded way of describing a key factor, if not *the* key factor, providing the basis for a new, widely accepted set of ground rules for the oil and gas industry. Let me briefly outline a few more.

Second, there is a growing recognition by poor and rich countries of a need for an understanding, which has already led to discussions at ministerial and expert levels, involving OPEC countries, International Energy Agency (IEA) governments, and other importers and exporters of crude oil, ranging from Japan to Mexico and Russia to Korea. Such a meeting would not have been possible five, ten, or fifteen years ago.

Third, there is the universal adoption by governments of market pricing principles for crude oil sold internationally. This development reverses a well-entrenched system of government-set prices and carries other extraordinary consequences. This advancement deserves elaboration, but for our purposes, its role has been to provide a now universal basis for evaluating crude oil, thereby facilitating the development of generalized rules of the marketplace.

Fourth, there is a striking movement involving foreign direct investment in refining and marketing facilities in the consumer markets by state-owned producing companies, especially from certain OPEC countries like Saudi Arabia, Venezuela, Kuwait, and Libya. This has fostered a greater understanding of what it takes to reach international commercial agreements, especially in officials in these producing countries. More important, it has led to a recognition of a commercial need for reciprocity of treatment which is ultimately the basis on which any emerging international regime for oil and gas depends.

Let me conclude these remarks by postulating again that the issue is not so much a question of whether a new rational petroleum regime is emerging. That should be clear from arguments of speakers earlier today. Rather, the question is whether it will come from rational governmental efforts to create the architectonics of something brand new from

the top down, or whether it will grow more organically from the bottom up, spurred on by the requirements of current, rapidly evolving circumstances. Thus far, the evidence overwhelmingly points to a push from the bottom up, rather than from the top down. And that is a shame, because given all of the changes I've described at the grass roots level, so to speak, there is a window of opportunity presented to governments to fill the institutional gap. That window has been created by two profound political events affecting the international energy sector over the past three years—the collapse of the Soviet Union and the Gulf War.

Where have the opportunities to create a new regime been present? I will briefly note three: (1) the international dialogue on energy launched last year by President Mitterand of France and President Perez of Venezuela; (2) the discussions, now largely aborted, between the United States and Saudi Arabia to set up a mutual energy security system that could be replicated and generalized around the world; and (3) discussions already under way in Europe on an Energy Charter.

However, an impediment to all the recent efforts at a dialogue has been the reluctance of the world's largest oil-consuming country, the United States, to participate wholeheartedly. Perhaps we need an entirely new approach rather than a grand gathering of world leaders—a series of limited relationships that, added together, are equivalent to multilateral talks. Nonetheless, the efforts to have a dialogue have been noteworthy. Last year, a gathering conducted in Esfahan, Iran, by Tehran's Ministry of Foreign Affairs was significant, even though it looked more like a preparatory session for an OPEC meeting or a homecoming for expatriates than the precursor to a serious government-to-government meeting involving consuming countries. Another attempt sponsored by the heads of state of Venezuela and France was convened initially last July in Paris, and has had subsequent follow-up. However, Washington retains an allergy to anything smacking of the 1970s "global dialogue" and participated only reluctantly at the last minute. France's accession to the IEA last year, however, did increase support within that body for serious dialogue.

The idea of a broadly based international meeting between producers and consumers, graced by the presence of big oil companies, has nonetheless moved back into the limelight as a result of Iraq's takeover of Kuwait with the subsequent United Nations boycott and war for liberation. But it was gaining favor in OPEC circles long before. Ministers have played hard at the theme virtually every time the producer group

has convened over the last few years. They have put forward a simple but forceful argument: OPEC cannot, by itself, bring stability to oil markets. Collaboration is needed both with other producing countries and with consumer governments, especially on thorny issues related to the management of inventories.

Even assuming world demand moves closer in line with production capacity and OPEC is able to get out of the business of defining and defending quotas, cooperation will be required on a host of issues, the ministers argue. These include sharing information on oil market trends, dealing with common environmental problems associated with oil use, attracting investment capital for new production, and coordinating investments in refinery upgrading and in grassroots plants.

In contrast to discussions in the 1970s about private company involvement, producing countries this time around seem to understand that companies need to be included with governments if a dialogue is to work. This change is a testament in part to the end of the anti-corporate ideological bias that was rampant fifteen years ago when the nationalization movement was at its peak. There is general recognition now that international, as well as national, oil firms play important roles in marshalling capital for investment and in efficiently processing and distributing crude oil and products. Already, companies are being welcomed back as investors into areas from which they have been cut off since the 1970s, or in the case of the Soviet Union, since 1920.

However, there are strong arguments against convening a formal international gathering, especially if it is to become involved in "legislating" the ground rules of a new oil regime. Most of these arguments have been put forward consistently and often persuasively by the governments of the United States and the United Kingdom. These countries doubt, for good reason, that all participants will want to see markets left to operate without government intervention. Algeria, Nigeria, and a host of other producers seem to want not only a floor price, but also a gradually rising one, no matter how anti-competitive and administratively difficult this may be to enforce.

Policy-makers in Washington and London also fear that an agenda would be overloaded by so many extraneous issues as to lead to paralysis—the fate of the North-South dialogue of nearly twenty years ago and what seems to be happening to international environmental meetings today. They want to avoid being the whipping boys at any such meeting. They see the inclusion of private companies as an unnecessary burden on

discussions. Above all, they believe that the political instability in the Middle East means that no producer from the region could be depended on to abide by a commitment to provide stable oil flows because circumstances in that part of the world tend to be too overwhelming.

Given these conflicts and constraints, is it reasonable to think that a set of objectives can be devised that would rally the right players? Can political forces work in such a way as to break the grip of inaction? Indeed, is it possible that a single mega-gathering simply is not the appropriate target to aim for? Might more modest, regional, or bilateral initiatives provide a seedbed for world-scale solutions further down the road when confidence and experience have been obtained? Two developments are in the offing that may provide a positive answer to some or all of these questions. One is centered in Europe, and the other is found in a growing coincidence of Saudi Arabian and United States interests.

The notion of a single European energy market extending from the Atlantic to Siberia could be one winning formula. Born in the aftermath of the Soviet political withdrawal from Central Europe and Moscow's decision to seek investments by Western companies, this idea has growing appeal. Part of its attraction—as Gabriele Cagliari, president of ENI, an Italian energy company, told a conference sponsored by Sheikh Ahmed Zaki Yamani's London-based Centre for Global Energy Studies in 1990—is that unharnessed by Western investments, Soviet oil and gas resources could make Europe virtually self-sufficient. That would spell an end to the region's dependence on imports from the Middle East and could marginalize OPEC's role. A Soviet resource base producing 18 million bpd or more of oil and 50 to 100 billion cubic meters of gas would leave Middle East producers increasingly extraneous to an integrated, European-based petroleum regime unless they also reopen their industries to foreign investment.

The main weakness in the European scheme, put forward by Dutch Prime Minister Ruud Lubbers nearly two years ago and now being incorporated into a European Energy Charter, has been that it will take a long time to get from here to there. Soviet output is languishing. Neither a set of investment laws nor an appropriate administrative structure is yet in place. Moscow has lost control over the fringe republics as well as over the main elements of the industry within Russia itself. Meanwhile, European dependence on the Middle East is sure to rise over the next few years, even as the abiding allure of Far Eastern and North American markets argues against a tilt by Gulf producers toward Western Europe.

However, the European Energy Charter is building its own momentum. The United States and Japan, once anxious to ensure that they were not left out in the cold, have decided to join in rather than to kill off the plan before it really takes root. Thus, as protocols are being written on a host of investment, trade, and environmental issues, the European Commission has perhaps unwittingly unleashed a legislative process internationally that will tame the international oil and gas sectors. Time will tell, but the likelihood of something tangible emerging is by no means out of the question.

An alternative to this Eurocentric concept of a new world energy system could lie in the logical progression of relations between the world's largest oil exporter, Saudi Arabia, and its largest consuming country, the United States. With the end of Gulf War, the two countries had a once-in-a-generation opportunity to put in place the elements of a new regime governing oil trade and investment. They missed the window that was open to them. But it could open once again, and it is appropriate to see what could emerge.

Such a system could enhance not only Saudi and the United States energy security, but also that of the rest of the world as well. It could help to assure the smooth operation of market forces and the needed growth in international oil trade. The Gulf hostilities crystallized the coincidence of the two countries' national security interests as well as their oil security goals. Now, a step-by-step process can be mapped out that would create a broad, international framework to which most other oil exporting and importing countries could eventually adhere. Additionally, this process could work without either country undermining its respective partners in OPEC or the IEA.

Negotiation of a bilateral agreement might start with a fleshing out of Saudi Arabia's own call of a couple of years ago, reiterated by oil minister Hisham Nazer at Harvard University in 1991, for a system of "reciprocal energy security." In return for even modest demonstrations of goodwill toward the kingdom, the minister suggested that the United States and other consumer nations could gain guaranteed access to a "fairly priced ocean of oil."

The two countries could focus initially on short-term mechanisms designed to mitigate the economic damage caused by recent oil supply disruptions. The key is in bilateral planning for strategic oil storage and use. The process is apparently already off the ground, with discussions between the nations regarding the use of Saudi oil through purchase and

lease to build the robust United States government inventory from 580 to 750 million barrels, but it has been close to impossible to achieve an agreement. This is a pity, for it is not hard to imagine that these discussions could later lead to ancillary negotiations involving a significant stockpiling of the kingdom's oil in the United States for Riyadh's own commercial and strategic purposes. Nor would it be difficult to conceive of these two major players talking about whether and how to coordinate stock releases during future disruptions, especially with the experience in the use of strategic stockpiles earlier this year and last already under their belts.

The benefits are clear. The United States and other consuming nations can get an insurance policy against future disruptions. Saudi Arabia can acquire political capital by demonstrating its commitment to bilateral energy security, and it can gain commercial tools to feed its growing supply links to the United States industry, helping oil markets to operate more smoothly. Additionally, the Saudis would have in place what would amount to substantial reserves in the United States. These could be used as a proxy for "equity oil," providing the kingdom with financial collateral against which to borrow money to help meet its growing obligations at home and abroad, including the funding of reconstruction and economic growth in the Gulf.

Riyadh has recognized that its own energy security requires unfettered access to the downstream petroleum sectors of the United States and other major industrial countries via exports of crude oil, products, and capital for further investment in refining and product marketing. This certainly can be guaranteed by an agreement. A bilateral accord could also guarantee United States firms access to Saudi oil on a long-term basis at market prices. Some contracts might be based on "pre-export" financing with the Saudis gaining cash payments today for oil delivered in the future. The kingdom might even consider easing its deep-seated political opposition to reopening its oil sector to foreign investment in producing fields. Such investment could be viewed as their form of insurance that the next time a capacity glut emerges, firms will close down high-cost production instead of lower-cost output, as they did before 1973 but ceased to do during the 1980s, when they had no financial interest in reserves in the Gulf.

Long-range commercial links are critical to reestablishing market stability in the petroleum sector. They are equally central to making sure that the next time a supply glut develops, the burden of adjusting to it is

more equitably spread around the world. Since nationalization, the full responsibility for trimming output to meet lower demand has been borne by OPEC, with only minor exceptions when other producing governments have agreed to make what were largely token cuts.

Bilateral arrangements based on improving markets, ensuring energy security, and guaranteeing investments and trade on a mutual, reciprocal, and non-discriminatory basis could also form the core of a future multilateral agreement. The benefits first captured by the United States and Saudi Arabia could be enlarged with similar bilateral agreements signed by the kingdom, other interested importing countries, Washington, and other exporters. Saudi Arabia could make deals with Japan, Korea, and the European Communities. Venezuela could strike its own accord with Washington, and so on.

Building new international institutional arrangements during the course of the 1990s will not be easy. But it is probably inevitable. The United States and Saudi Arabia appear to have lost a major opportunity to create a new order from above. And, the European Charter idea might, in the end, turn out to be a winner, although at this stage that seems far from likely. But a new regime seems to be in the offing in any event. It will not likely require the dismantling of OPEC or the IEA. Equally important, it need not require a politically difficult dialogue between the two organizations, a broader United Nations forum, or another setting for grand discussions. Yet over time, it could supersede both, providing the foundation for a kind of General Agreement on Petroleum and Petroleum Products, much as the GATT emerged from bilateral trade agreements based on the extension of most-favored-nation treatment to a broad array of countries. Then the rule of law will truly have its day in this sector.