

Explanatory note:

I wrote the text below as an in-house document of the UN Secretariat. Its preparation, in September 2003 was inspired by the concept, advanced at the time by Brazil, of the need to “rebalance the principal organs of the UN”. It seemed that it would be useful to explore the implications of the concept of “rebalancing” for the systemic aspects of UN reforms. An early version of the paper was shared with the Secretary-General in September 2003. Subsequently, in December 2003, the present version was prepared and made available, along with some other material, to the High Level panel on Threats, Challenges and Change established by the Secretary-General. The panel placed it on its website. Some of the ideas from the paper (for example the proposal to abolish the Trusteeship Council) were accepted by the Panel but most were not. However, in March 2005, the paper proved useful in the preparation of the Secretary-General’s report “In Larger Freedom”. That report (doc. A/59/2005) took on board the idea of the “three council structure” (paragraphs 165, 166) and the idea of the Human Rights Council (paragraphs 181 – 183). The ideas concerning the General Assembly were used only in a very general manner (paragraphs 158 – 164).

It should be recalled that the proposal for the establishment of the Human Rights Council was accepted by the UN Member States. The Council was established in 2006.

It needs to be mentioned that most of the ideas below are not entirely new. They are, however, put together in a new fashion, as an example of a possible general approach. The author continues to believe that a systemic framework is necessary for any serious discussion of reform, whatever the focus and the level of the achievable. The paper does not discuss the issues of the UN Secretariat, it only emphasizes that the Secretariat is supposed to serve the system and therefore its reform depends on the type of changes which affect the system as a whole.

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REBALANCING THE PRINCIPAL ORGANS OF THE UN – A CONCEPT

HOW TO APPROACH THE ISSUE?

The use of terms “rebalancing the principal organs of the UN” inevitably raises the issues of institutional change in the UN system. This is likely to influence the discussion on the “High Level Panel of Eminent Personalities”, especially since the recent Secretary-General’s report on the implementation of the Millennium Declaration explicitly challenges the members of the UN to think about “radical reform” of some of the multilateral institutions. While the work expected by the High Level Panel should focus primarily on the basic policy issues of our time, the institutional aspects cannot be neglected. Hence, the need to give some thought to the issues of reform within the UN system. This concept paper offers some ideas and the following two suggestions on the method.

First, the initial phase of debate on institutional reform has to be kept outside the UN bodies which are not well suited for such a discussion. Hitherto the issues of reform and “revitalization” of the UN have been addressed but results were meagre – the words of the Roman poet Horace: “*parturiunt montes, nascetur ridiculus mus*” offer the best description.

* This paper contains personal views of the author

Therefore, proposals for institutional reforms – originating from the High Level Panel or from other sources should be reviewed by the Secretary-General and proposed to the heads of State and Governments directly. Subsequently, a conference might be convened (a “Dumbarton Oaks Two”) and a comprehensive package negotiated. While many of the proposals need not require an amendment of the UN Charter, some of them might and Charter revision must be understood as a possibility right from the start.

Second, the package of proposals to which this process would aim should ideally be comprehensive. This means that it would need to address all the principal organs of the UN – individually and in their interrelationship – with a possible exception of the International Court of Justice. The other principal organs need to be changed – both in their composition, their priorities and their methods of work. One principal organ – the Trusteeship Council should be abolished. Its historical role has been completed. Trusteeship is not a desired solution anywhere anymore – other alternatives should be developed – and they can, on an ad hoc basis and with the involvement of other principal UN organs.

In general, the new structure of principal organs would consist of the General Assembly, three councils (Security Council, Economic and Social Council, and Human Rights Council), the International Court of Justice and the Secretariat. The main changes will be needed with regard to the three councils which will need to be operational, result-oriented and capable of working on a continuous basis and in a coherent manner. The General Assembly should change its methods of work and its agenda which should become less cumbersome and duplicative and should focus on its overall guidance of the organization, on the financial decisions and the progressive development of international law. The Secretariat should be further improved. The International Court of Justice does not necessarily have to be affected by the proposed changes in the system – except to the extent the Court itself would find it necessary.

THREE COUNCILS

Security Council

Ever since the end of the Cold War, it has been evident that the Security Council needs to be changed – in its composition and in its methods of work. Much has been done with respect to the latter. However, the issue of composition remains of critical importance both for legitimacy and effectiveness of the Council’s future work.

The discussions of the proposed change of the composition of the Security Council have produced good ideas but little agreement. Judging on the basis of the entire discussion in the past decade, one could conclude that the composition of the Security Council should change along the following lines: The total number of the Security Council should be 25. The present five permanent members should remain. There is a need for six additional permanent members. The elected members (total of 14) would form two groups. Six among them would be elected on the basis of “more frequent rotation”. The General Assembly would elect a total of 12 Member States into this category and members thus elected would serve every second two-year term within the period of twelve years. The remaining eight elected members would continue to be elected in accordance with the principle of equitable geographic representation for the period of two years and without the option of immediate re-election.

This system would be reviewed after twelve years by a special review conference with the objective to adjust, to the extent necessary, the composition of the Security Council and the rules governing its methods of work.

The Security Council will obviously continue with the problems of international peace and security as they arise. In addition, it will need to develop guidelines with regard to such basic policy issues as prevention of armed conflict, including preventive deployment, the use of military force which might be necessary to prevent humanitarian

disasters, counter-terrorism, curbing the proliferation of weapons of mass destruction and targeting of sanctions. Much valuable work has been done already in these areas but coherent policy guidelines are still necessary.

Economic and Social Council

This principal organ is widely perceived as ineffective and will need a major overhaul.

At present, the Economic and Social Council is too large. It should be reduced to 35 members, 10 of which would be the ten largest donors and 10 the Members States with the largest populations (other than those who might be among the ten largest donors). The other 15 members would be elected in accordance with the principle of equitable geographic representation for a period of four years and could be immediately re-elected.

The renewed Economic and Social Council would need to deal with the most critical situations of economic and social nature, including with the individual countries which find themselves in situations of grave economic crisis. The Council would also serve as the governing board of funds and programs in the fields of economic and social development (UNDP, UNICEF, UNFPA and UNIFEM). Its agenda would be practical and result-oriented.

The Economic and Social Council would meet on a “whenever necessary basis”. This would mean continuous work, not unlike the work of the Security Council, with thematic segments necessary to address the major cross-cutting issues such as the overall policies of official development assistance and general consideration of implementation of the Millennium Development Goals which would constitute the general policy framework of the Economic and Social Council.

The system of functional commissions would need to be reviewed, as well as ECOSOC's relations with the Specialized Agencies, the Bretton Woods Institution and the WTO. The agreement on the division of labour with these institutions would obviously have a major impact on the agenda of the Economic and Social Council.

Human Rights Council

The activities of the UN in human rights should be upgraded and given a central role. Establishment of the Human Rights Council as a principal organ of the UN would serve this purpose. This would also create the necessary momentum for a general systemization of the existing set of human rights bodies, procedures, and rapporteurs. It should be borne in mind that – historically, the mechanisms in the field of human rights have been created in a haphazard manner, without any idea of the overall design. This was inevitable, given the historic circumstances. Efforts to create a system in the field of human rights have not succeeded. The institution of the High Commissioner for Human Rights cannot be expected to create a system. Establishment of a principal UN organ – the Human Rights Council would do that and would also provide a framework within which the High Commissioner can be more effective.

The Human Rights Council would consist of 35 members elected for a period of four years and could be immediately re-elected. Member States would need to meet certain criteria to become eligible: ratification of at least four out of six principal UN human rights treaties, declaration of acceptance of UN scrutiny through thematic rapporteurs without conditions and, possibly, other criteria of this kind. Members would be elected with due regard to the need for equitable geographical representation.

Like the other two councils, the Human Rights Council would meet on the “when necessary” basis. It would review the work of all UN Charter-based mechanisms including the High Commissioner on Human Rights and would deal, when necessary,

with specific crisis situations and recommend remedies. The existing mechanisms would have to be reviewed, streamlined and systemized. The Office of the High Commissioner for Human Rights would be brought to New York.

In addition, Member States should review the existing mechanisms under human rights treaties and establish a single review body with a simplified reporting system. This task, obviously, belongs to the state parties to the treaties in question but it is more likely that the current unwieldy set of mechanism will be replaced with something more adequate if the entire human rights system is overhauled.

Joint Task Forces

The three councils would work within their respective domains but should endeavour to work in a coherent and mutually reinforcing manner. Joint task forces could be created to deal with crisis situations involving security, economic/social and human rights aspects.

Cooperation with the civil society

Each of the three councils would need to design a framework for constant communication and cooperation with the civil society and other actors (business community, academic institutions, etc.). The experience gained so far would have to be evaluated and new forums for cooperation would have to be designed.

Elections

In order to achieve an overall balance and coherence it would be important to conduct elections for the three councils in a coordinated fashion. Realism requires that some of the Member States be given permanent seats or more frequent rotations in the Security Council and in the Economic and Social Council ab initio. Only members with the necessary and proven capacity could serve concurrently on two or all three councils. The councils should not be too large and should (with the exception of some aspects of work of the Security Council) work publicly and allow non-members to speak and to make proposals.

GENERAL ASSEMBLY

The General Assembly is the body in which all Member States are represented. It represents a valuable forum for exchange of views among the highest representatives of states and a framework within which the broadest policy guidance can be developed. On the other hand, the Assembly's agenda is too extensive and duplicates the work which would be best left to elected bodies (councils).

The General Assembly should complete most of its work in plenary and should have two annual sessions – one in autumn/winter devoted mainly to political/security issues and the other in spring/summer devoted primarily to economic, social and human rights issues.

In the future the General Assembly should not attempt to deal with all the details and should carefully avoid duplication. The way to achieve that is to reform the system of the committees of the General Assembly.

Main committees

The General Assembly would need to retain the financial and budgetary committee and the legal committee. The other main committees are not necessary and should be abolished. The relevant parts of their agenda should be taken directly by the plenary or by the councils. The Assembly should concentrate on the reports of the councils and consider them substantively. This would strengthen the organization's coherence. The councils should also propose draft decisions to the General Assembly – when such decisions are needed. The Assembly would concentrate on the reports and proposals of the councils rather than devise a parallel set of decisions of its own.

The two functions which can be properly carried out only by the General Assembly are (a) decisions on the budget and (b) progressive development and codification of international law. Hence, the need to retain these two committees.

Special committees

The General Assembly might need special committees such as the Special Committee on Peacekeeping, Special Committee on the Palestinian Rights and Special Committee on Decolonization. The Assembly should review the current situation and decide which special committee will be necessary in the future. Disarmament issues might merit establishment of a special committee – it being understood that the Conference on Disarmament would remain the principal negotiating forum and that the major recommendations in this domain would be adopted by the General Assembly in the plenary.

SECRETARIAT

Given that the necessary reforms are the Secretary-General's prerogative and that significant improvements have been introduced in the preceding years, no major reform is suggested at this stage. Obviously the methods of collegiate work at the senior levels in the Secretariat such as the Executive Committees and the Senior Management Group will need to be strengthened further. Other major changes will have to take place once reforms of the UN structure start and changes take place in the domain of inter-governmental bodies which the Secretariat serves.