



A Second United Nations Charter

Modernizing the UN for a New Generation

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Global Governance Forum

Acknowledgments

This document is the result of over a year-and-a-half of consultations involving a total of four in-person, multiple day-long meetings in Europe in 2023 and 2024, countless online interactions, and thematic consultations across multiple time zones. It expresses the consensus among a diverse team of experts, academics, and practitioners who share the view that the 2024 Summit of the Future provides a unique opportunity to launch a conversation on the types of reforms to our existing global governance architecture that are needed to address the complex problems facing humanity, starting with a review of the UN Charter. *A Second United Nations Charter: Modernizing the UN for a New Generation* is the follow-up to *A Second Charter: Imagining a Renewed United Nations*, published in September of 2023, making the case for a new UN Charter.

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A Second United Nations Charter: Modernizing the UN for a New Generation

INTRODUCTION

The 1945 United Nations Charter was the innovation of its time. Its predecessor, the League of Nations, had collapsed under the strain of conflict in Europe in less than 20 years. But the new post-war Charter remarkably enshrined certain ideas, values and principles that would feed the growth of international co-operation for the next 80 years.

And it was successful. Despite recurring crises and the ever-present threat that local and regional conflicts will expand globally, the UN has thus far succeeded at its original purpose of saving “succeeding generations from the scourge of [a third world] war.” The Charter also enshrined the principle of the self-determination of peoples, and the UN quickly oversaw an enormous global decolonization process, starting with the 74 non-self-governing territories identified by the 1946 General Assembly. Membership almost tripled over the next 30 years and for the first time, the great majority of the world’s peoples were both independent and represented in one forum. The UN Charter set a new normative standard in Human Rights, explicitly calling for “universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” As the organization gained legitimacy, it became the world body for the management of global problems.

But it also struggled. Hand in hand with its successes, the Organization suffered several failures and fundamental challenges. Its peace and security work was riddled with double standards, selectivity, hypocrisy, and the whims of geopolitics. It took far too long to operationalize its own normative human rights standards meaningfully and at scale. Poverty reduction and development lagged, even as it failed to address climate change before it became a global emergency. And the Organization struggled to adapt and change despite bursts of innovation.

So, why change it? Because we must. After almost eighty years, the original Charter is no longer fit for purpose. The world of today is very different from that of 1945. Global inequality is widening and the balance of power is constantly shifting. New risks to the common well-being have emerged. Other older problems persist, seemingly now unresolvable despite decades of effort. The world faces multiple crises and existential threats beyond those for which the Organization was conceived. While there are divergent views on the precise way forward, there is absolute clarity that business as usual will no longer suffice.

And why now? The Second Charter draft presented here responds to a multi-year reflection process that began in 2020 on the 75th anniversary of the UN and is offered as governments gather for the 2024 Summit of the Future, one year before the UN’s 80th anniversary. It takes up the challenge and themes of Our Common Agenda (2021) and New Agenda for Peace (2023) reports, but it also builds on a rich tradition of thought about UN reform going back to the first decade of the organization and through notable more recent contributions, like the Agenda for Peace (1992) and In Larger Freedom (2005). Finally, it is informed by a wide range of serious and thoughtful reports, such as A Breakthrough for People and Planet (2024) and many others, some of whose proposals are echoed or adapted here.

A thought contribution at a critical time. This draft Second Charter is the work of a group of scholars, experts, lawyers, practitioners, and former government officials, ambassadors, and staff members with deep knowledge of the UN. It also benefited greatly from the comments and views of several former heads of government, ministers, and Under Secretaries-General, who gave generously of their time and experience. But this document is not the fruit of inter-governmental negotiations, and the drafters acknowledge that they are not fully representative of the world’s population.

An invitation to dialogue. What the draft Second Charter does offer is an invitation to a much-needed conversation with all of the stakeholders in the global community, including civil society, especially youth, and within and between governments and parliaments. Many will disagree with some of the proposals made here, which is welcome. Others may dismiss the effort as utopian, too radical, or not radical enough. That also is healthy.

A path to action. The *Second Charter* is not meant to be definitive, but rather it is a work in progress. It reflects a constant tension between long-term goals and ideals on the one hand and immediate constraints and realities on the other. It asks a recurring pivotal question over and over: what is needed to move forward now? Substantively, it is more evolution than revolution, though the boundaries between the two are probed in places, as this dire and increasingly fragmented global moment surely requires.

Hope. The *Second Charter* offers hope through sober, careful, tempered, and timely proposals for the next stage of the management of urgent global problems. Others will surely find ways to improve and build on these quickly. Above all, what the exercise confirms is that the existing UN Charter can be improved to such a degree, drawing on decades of experience, as to amount to a full Second Charter. That in itself is surely an important insight given that, perhaps sooner than anticipated, action may become a pragmatic necessity.

Highlighting Key Features and Major Changes

The *Second Charter* broadly encapsulates three kinds of changes: some much-needed ‘legacy language’ updates and deletions, several normative advances, and a set of major structural changes. Each of the existing chapters has been updated and modified, but some of the most significant features include:

Legacy Updates. The *Second Charter* effectively deletes three obsolete chapters on the Trusteeship system and cleans up 1945 ‘legacy language’ such as references to ‘enemy states.’

Normative Advances. The draft incorporates the ‘missing pillar’ of environmental and planetary health into the Charter for the first time. It elevates the level of protection and advancement of human rights and raises the previous standard on the participation of women in all aspects of the work of the Organization. The Second Charter also fosters enhanced ownership and more direct participation in the United Nations.

A SET OF MAJOR STRUCTURAL CHANGES

1. A coherent institutional design. The draft proposes an overall design in which four councils – Security, Economic and Social, Human Rights, and a new Earth System Council – each carry primary responsibility in their respective areas under the supervision of a strengthened General Assembly and a new Parliamentary Assembly to be phased in gradually.

2. A Parliamentary Assembly. While the General Assembly would continue to represent executive governments on a one-country-one-vote basis, the *Second Charter* proposes a nascent Parliamentary Assembly. Any objective reflection on the considerable experience of the last half-century with regional-level parliaments, as in the European Union, is sure to conclude that this is beyond doubt the broad future direction for global governance. Representation, democratization, and the legitimacy, broader participation and inclusion they confer, are the next horizon. At the same time, to build up such institutional capacity is the work of time.

3. A new Earth System Council. This new 54-member Council bridges a critical gap in environmental governance and seeks to remedy the very significant fragmentation in this domain to provide overall direction for this immensely important area of governance and problem solving for the future of the planet.

4. An expanded and more representative Security Council. Beyond its five current permanent members, the Security Council expands to include a new category of five additional renewable 'long-term' regionally selected seats as well as fifteen more non-renewable seats that redress various current representational imbalances (for a total of 25 seats).

5. A General Assembly and Parliamentary Assembly concurrent override to Security Council vetoes and narrowly tailored authority to create resolutions that are binding on states. At the same time, drawing on decades of experience, the draft expands upon the powers of the General Assembly to be shared with the new Parliamentary Assembly. It formalizes and expands on the already accepted Uniting for Peace procedure and the more recent Liechtenstein initiative to give the two bodies concurrent power to override a veto by a permanent member of the Security Council in exceptional situations. In addition, in very limited exigent circumstances, it gives the two bodies collectively the power to promulgate resolutions that would be binding on states.

6. A Standing Peace Force and disarmament. The original Charter's UN Peace Force, though never used, is retained and updated in light of 70 years of peacekeeping and peace-making experience. Parallel to the resulting strengthening of the collective security mechanisms, the Second Charter envisages the preparation of a Protocol, bringing into being a robust system of arms control and disarmament.

7. Reducing inequalities. The new ECOSOC proposed in the *Second Charter* will be empowered with the instruments for supervising and monitoring the implementation of the economic and social agendas, focused on reducing inequalities and leaving no one behind. The new ECOSOC is also strengthened to better coordinate the work of specialized agencies and subsidiary bodies and upgrade its engagement with NGOs, civil society, and other stakeholders.

8. Limited Compulsory Jurisdiction for the ICJ. The International Court of Justice is given compulsory jurisdiction, including a review function (akin to that of a constitutional court) for the UN itself.

9. A new way to select the Secretary-General. Included among other provisions for the Secretariat is a new process for the selection of the Secretary-General to ensure greater independence, gender balance and participation.

10. Embedding further revisions. Part of the reason for the current paralysis is the lack of a viable institutional change pathway. This needs to be a recurring process, as with most constitutions and many treaty-based systems. Any future Charter needs to be subject to regular review and revision.

Funding the Future

Any changes will certainly entail costs. However, the costs of effectively governing global challenges will be orders of magnitude less than the cost of the consequences of failing to do so. Given not only the difficult economic times, but also the urgent needs of SDGs and climate finance, it is clear that a new approach and mechanism are required with respect to funding the work of the UN system. Having identified what is needed, the international community can then work out how to pay for it. Here again, some initial creative proposals are outlined.

Moving Forward

The *Second Charter* as currently drafted is a work in progress. We look forward to the improvements that will come through further consultation, especially benefitting from the wisdom of diverse constituencies around the world. In the meantime, we submit the present iteration for consideration by all interested parties.

Note to Readers Regarding Style

The Second UN Charter that follows builds on the text of the 1945 original. We have adopted the following stylistic conventions. Original text that is preserved is shown in black. Changes to the Charter are shown in **blue**, in boldface text, both to highlight deleted text and new text, either in the form of edits to old articles or totally new articles, such as those shown in the two new chapters on the Human Rights Council and the Earth System Council.

The numbering of the articles and chapters in the original Charter has been preserved. For readers familiar with the 1945 Charter, maintaining the original numbering system will make it easier to digest and reference. In addition, all academic literature on the Charter references these original article and chapter numbers, so for the sake of situating the Second Charter in the existing UN reform discourse it made sense not to re-number this new draft at the outset. However, a cleaned-up version of the Second Charter, with all articles—old and new—sequentially ordered is also being published concurrently and is available on the website of the Global Governance Forum.

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INTRODUCTORY NOTE

The Charter of the United Nations was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945. The Statute of the International Court of Justice is an integral part of the Charter.

Amendments to Articles 23, 27 and 61 of the Charter were adopted by the General Assembly on 17 December 1963 and came into force on 31 August 1965. A further amendment to Article 61 was adopted by the General Assembly on 20 December 1971, and came into force on 24 September 1973. An amendment to Article 109, adopted by the General Assembly on 20 December 1965, came into force on 12 June 1968.

The amendment to Article 23 enlarges the membership of the Security Council from eleven to fifteen. The amended Article 27 provides that decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members (formerly seven) and on all other matters by an affirmative vote of nine members (formerly seven), including the concurring votes of the five permanent members of the Security Council.

The amendment to Article 61, which entered into force on 31 August 1965, enlarged the membership of the Economic and Social Council from eighteen to twenty-seven. The subsequent amendment to that Article, which entered into force on 24 September 1973, further increased the membership of the Council from twenty-seven to fifty-four.

The amendment to Article 109, which relates to the first paragraph of that Article, provides that a General Conference of Member States for the purpose of reviewing the Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members (formerly seven) of the Security Council. Paragraph 3 of Article 109, which deals with the consideration of a possible review conference during the tenth regular session of the General Assembly, has been retained in its original form in its reference to a “vote, of any seven members of the Security Council”, the paragraph having been acted upon in 1955 by the General Assembly, at its tenth regular session, and by the Security Council.

PREAMBLE TO THE CHARTER OF THE UNITED NATIONS

WE THE PEOPLES OF THE WORLD, UNITED NATIONS

recognizing our common humanity, committed to treating others as we would like them to treat us, and dedicated to building a brighter future for all;

DETERMINED

to save **humanity succeeding generations** from the scourge of war, ~~which twice in our lifetime has brought untold sorrow to mankind~~, and to secure a just, free and peaceful world where humanity and nature thrive in harmony, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, **held equally by all, including future generations, by virtue of our common humanity, in the equal rights of men and women and of nations large and small, without any form of discrimination or distinction as to race, sex, language, religion, or any other category**, and

to establish conditions under which justice and **the rule of law including** respect for the obligations arising from treaties and other sources of international law can be maintained, and

to protect the planetary environment as the common heritage of humanity and ensure the long-term sustainability of its life-supporting functions, and

to promote social progress, **and** better standards of life, **and equality of opportunity** in larger freedom.

AND FOR THESE ENDS

to unite to serve the common good, and

to protect freedom and diversity, and

to balance these two aims, practicing to practice tolerance and **living live** together in peace with one another as good neighbours, and

to unite our strength to **achieve and** maintain international peace and security, and

to ensure, by the acceptance of **international law and its enforcement principles and the institution of methods**, that armed force shall not be used, **unless permissible under this Charter, save in the common interest**, and

to pursue complete and comprehensive disarmament, and

to employ **the international** machinery **of global governance** for the promotion of the **sustainable** economic and social advancement **and equal opportunity** of all peoples, **and the protection and management of the planetary environment**,

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS.

Accordingly, **the Charter of the United Nations adopted in San Francisco in 1945, having now been replaced, the spirit of the United Nations is hereby continued under this Second Charter with the**

structure, functions and powers set forth in the following Articles and Protocols. ~~our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.~~

Comments on the Preamble to the Charter of the United Nations

Summary

There are two principal conceptual changes proposed in the Preamble and Chapter One. First, the United Nations should increasingly be founded on the sovereign equality of people rather than solely of nations, thus increasingly bringing the analysis of decision-making to serve the common interest of humanity rather than strictly national interests. In Chapter IV of the Second Charter this is operationalized through the creation of a Parliamentary Assembly (representing the people) to complement the General Assembly (representing the nations). As this is a process, some of the language proposed is tentative, exploring exactly where along this continuum we wish this Charter to lie.

Second, the purposes of the United Nations have been expanded to cover all 21st century global challenges, in particular the planetary environment.

A number of specific changes are covered in the detailed comments that follows.

We the people

After much discussion about “We the people” versus “peoples”, it was decided for a number of reasons that this document is on behalf of the “people”. First, to the extent that global challenges are common to humanity (albeit experienced differently), we are now one human family. Second, sovereignty originates with the people (UDHR 21.3 “The will of the people shall be the basis of the authority of government”), and it is they who determine how to organize their governance, for example in the form of local, national, regional and global governance. Third, we checked various constitutions around the world, the vast majority of which speak of “we the people” rather than “peoples.”

The necessary corollary to starting with “people” (united) rather than “peoples” (diverse) is to emphasize the importance of protecting diversity, which is now added explicitly under “aims” as shown below.

Our common humanity

The aim of the preamble is also to highlight an important moral teaching arising from our common humanity (the Golden Rule), which is broadly shared across cultures and is embedded in the religious and cultural heritage of most of the world’s peoples, and provides the moral foundation of this Second Charter. We also seek to provide a sense of hope and forward-looking vision. Moreover, the original language referred to “future generations”, which excludes the present generation, whereas the present generation should also be protected from the scourge of war.

Rule of law

We have inserted two references to the rule of law in the Preamble and Chapter 1 in order to more explicitly highlight this fundamental principle.

Contemporary challenges

The “ends” of the Charter have been broadened to reflect changes since 1945 in order to include contemporary global challenges, in particular far greater attention to nature and the environment and an increasing urgency to preserve a planet in peril. As such, it is critical to include because, in addition to war, it is a key challenge of our time. In fact, it is one of the primary areas necessitating UN Charter reform.

We used the term “planetary environment” in the preamble because scientific terms (like “Earth System”) are less likely to inspire the imagination and are not widely understood.

Diversity and inclusion

Diversity and inclusion are challenging questions currently. There are many different forms of identity, which have historically been used to discriminate against people. These include nationality, ethnicity, ability, age, etc. Rather than get caught up in a potentially endless list which runs the risk of excluding a given group (either now or in the future), we have chosen to include the ones already agreed to in the original UN charter (race, sex, language, or religion) and then add “or any other category” to cover all.

International law

There was some debate in our deliberations over references to “world law” vs. “international law.” The former would be somewhat more accurate given proposals elsewhere in this document on the role of a proposed Parliamentary Assembly. It would also take the focus away from nation states as the ‘be all and end all’ in global governance; and, finally, it would represent a rebranding that was more forward thinking. One disadvantage, however, is that use of “world law” would throw into question the continued applicability of longstanding international law. It is important not to be ambiguous about the terminology as two Post Cold War examples may show. The Kosovo Commission determined that NATO’s bombing campaign in Kosovo was “illegal but legitimate,” in part due to lack of UN Security Council authorization. Despite the Commission’s attempt at pragmatism, it ended up creating a new category (beyond traditional international law) of normative justification for armed intervention that both created confusion and weakened international law. Another example is the recent American practice of referring to the “rules-based international order,” which muddies the waters of the U.S. commitment to “international law” and gives it more discretion as to which rules it will, or will not, adhere to. These practices are contributing to a weakening of international norms. International law since Grotius has an almost 400-year long tradition. It is catalogued in thousands of volumes, with even more volumes of commentary. The advantages to a nomenclature change need to be weighed against the stabilizing effects of what is already very established jurisprudence.

Disarmament

This is an objective that the General Assembly long ago laid out when it called for “complete and comprehensive disarmament” which is as important today as ever and, therefore, we have chosen to highlight it as an aim in the preamble.

CHAPTER I PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective **collective** measures for the prevention and removal of threats to peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination **of peoples subject to compliance with this Charter**, and to take other appropriate measures to strengthen universal peace;
3. To achieve **global international** co-operation in solving **global international** problems of an economic, **environmental**, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, **or** religion, **or any other category; and**
4. **To protect the planetary environment to ensure optimal conditions for human and natural well-being within planetary boundaries, including regulating human activities that threaten the common good of all;**
5. **To ensure that the economic system and its supporting principles and institutions work to provide sufficiently for all by eradicating extreme poverty and malnutrition while providing access to health, education, and technology;**
6. **To realize human rights through an institutional framework that eliminates the gap between the high aspirations embedded in the Universal Declaration of Human Rights and the lived reality experienced by many, whose rights are not respected;**
7. **To eliminate all forms of discrimination, including that based on gender and to promote gender equality and the empowerment of women; and**
8. To be a centre for harmonizing the actions of **people and** nations, **ensuring compliance with this Charter and the agencies, laws and regulations enacted hereunder** in the attainment of these common ends.

Article 2

The **United Nations Organization** and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The **United Nations Organization** is based on the principle of the sovereign equality of all **its Members people, pooled as necessary to address collective challenges at the level they arise.**
2. **All Member States accept their responsibility to abide by the rule of law and cooperate in the global interest.**
3. **2.** All Members **States**, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the **presentis** Charter.
4. **3.** All Members **States** shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

5. 4. All Members **States** shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations. **In this spirit, all Member States shall pursue complete and comprehensive disarmament consistent with this Charter.**

6. 5. All Members **States** shall give the United Nations every assistance in any action it takes in accordance with the **presentis** Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

7. Governance by t~~The United Nations Organization~~ **and the obligations and responsibilities derived from it shall apply not only to Member States and subnational entities, but to all public and private actors, as well, and** shall ensure that states **and other actors** which are not Members of the United Nations act in accordance with these Principles, so far as may be necessary for the maintenance of international peace and security, **sustainability and well-being.**

8. The United Nations' responsibility for the planetary environment, based on sound scientific advice, extends to those dimensions and processes that are beyond the capacity of any nation or region to govern independently.

9. The United Nations, including all bodies enumerated in this Charter, shall, as far as reasonably possible, be transparent and open to people, civil society and other interested groups.

~~7. Nothing contained in this Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under this Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.~~

10. The powers not delegated to the United Nations by the Charter are reserved to the States respectively, their representative interstate organizations, as the States may freely establish, or to the people. All delegated powers exercised by the United Nations under this Charter shall be subject to the limiting principles of:

- a. Subsidiarity, that in exercising its delegated powers, the United Nations shall only impose global legislative solutions on States to the extent that States acting individually or collectively at the State level are unable or unwilling to achieve similarly effective solutions;**
- b. Proportionality, that in exercising its delegated powers, the United Nations shall restrict State discretion only to the extent necessary to achieve its objectives;**
- c. Uniform, Equal and Nondiscriminatory Treatment, that in exercising its delegated powers, the United Nations shall afford to all States and persons equal treatment;**
- d. Respect for International Human Rights and Humanitarian Law, that in exercising its delegated powers, the United Nations shall respect well-established principles of international human rights and humanitarian law to the same extent and in the same manner as is generally required of States.**

Comments on Chapter I **Collective**

The use of the term “collective” implies a group of actors, but the new document emphasizes one United Nations and a move from international forms of governance to global governance. Hence its removal.

Self-Determination

Self-determination is not absolute, but subject to its impacts on others. Colloquially, your freedom to swing your arm ends where my nose begins. Self-determination is also qualified by the requirement to protect the domestic population.

Purposes of the UN

These paragraphs propose to bring in clear definitions of the evolving purposes of the United Nations. The first deals with the environment, the second emphasizes the economic and social sphere, and the third focuses on human rights.

Gender equality

Since the articulation of the UN Charter, recognition of the necessity of gender equality as a prerequisite to success in all fields of endeavor has grown. This language attempts to recognize that.

Sovereign equality of all people

The focus on ‘the sovereign equality of all people’ lays out a foundation more in accordance with the world today, and in accordance with the human right that “The will of the people shall be the basis of the authority of government” (UDHR 21.3). It is the people who are sovereign and, as such, they determine how to organize their governance, e.g., in the form of local, national, regional and global governance.

Member States

The original UN Charter often uses the term “Members” rather than “Member States.” A case can be made for consistency throughout and to use “Member States” in order to clarify the specific entity being referred to. On the other hand, thought leaders in this space are moving away from a UN of States to a UN of States and People. As further explained in Chapter IV, the latter might include the creation of a Parliamentary Assembly representing the people of the world. It might be feasible to use both descriptions depending on the context.

Disarmament

A purpose of the UN to deliver the aim of disarmament was added to the Preamble.

All actors

The paragraph on the obligations and responsibilities of the United Nations is a logical extension of the above-noted comment on moving toward a UN of States and People. The latter implies UN governance for peace and security, a sustainable environment, an economic system that delivers opportunities and prosperity to all, among others. Since many other stakeholders, in both public and private sectors, are involved in these domains and since their actions have tangible impacts on global well-being, they should therefore be written into the UN Charter.

Transparency

The language on transparency is proposed to ensure the benefits of transparency in governance, including greater inclusion of civil society and other actors in the affairs of global governance. How

this principle is realized can be determined by the various organs of the UN itself (as articulated in their relevant Charters).

Non-delegated powers

This article aims to establish the principles that would serve to both limit and make uniform the exercise of power of the United Nations. It draws on the experience of the European Union and seeks, broadly, to ensure that the principles upon which the UN exercises its powers are predictable and consistent. It significantly reconceptualizes the original Charter Article 2.7 limits on the power of the United Nations relative to the Member States. In the original, the organization's limitations were stated categorically: save in the application of Chapter VII enforcement measures, "nothing in this present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state." Anticipating the state sovereignty compromising reforms that follow in the body of the Second Charter, Article 2.10 follows the less categorical, but still restrictive, approach to circumscribing centralized governmental powers adopted in the 10th Amendment to the United States Constitution. Just as the 10th Amendment provides that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." So we provide that "the powers not delegated to the United Nations by the Charter are reserved to the States respectively, their representative interstate organizations, as the States may freely establish, or to the people." Beyond this basic limiting principle, we further provide that the Organization's powers should be subject to the limiting principles of subsidiarity, proportionality, uniform, equal and nondiscriminatory treatment, and to respect for international human rights and humanitarian law. These principles are drawn primarily from European Union treaties and directives and other international legal materials.

CHAPTER II MEMBERSHIP

Article 3

~~The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January 1942, sign the present Charter and ratify it in accordance with Article 110. Upon entry into force of this Charter, and in accordance with Article 110 (4), all previous Members of the United Nations shall be deemed to be continuing Members of the reconstituted United Nations.~~

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgement of the Organization, are able and willing to carry out these obligations.
2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly **in consultation with the Parliamentary Assembly upon the recommendation of the Security Council.**

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly **in consultation with the Parliamentary Assembly upon the recommendation of the Security Council.** The exercise of these rights and privileges may be restored by the **General Assembly in consultation with the Parliamentary Assembly Security Council.**

Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the **United Nations Organization** by the General Assembly **in consultation with the Parliamentary Assembly upon the recommendation of the Security Council.**

Comments on Chapter II

Chapter II largely keeps the substance of the original from the 1945 Charter. The major addition is to provide under Article 3 that upon entry into force of the Second Charter, “all previous members of the United Nations shall be deemed to be continuing members of the reconstituted United Nations.” The Chapter also gives the new Parliamentary Assembly a consultative role in advising the General Assembly on membership decisions within its purview.

CHAPTER III ORGANS

Article 7

1. There are **provided established** as the principal organs of the United Nations: a General Assembly, **a Parliamentary Assembly**, a Security Council, an Economic and Social Council, **a Trusteeship Council, a Human Rights Council, an Earth System Council**, an International Court of Justice, and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

1. The United Nations shall ~~place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality~~ **ensure gender equity** in all of its principal and subsidiary organs. **Member States shall ensure gender equity in the appointment of their various representatives to the United Nations organs.**
2. **The General Assembly and the Parliamentary Assembly shall adopt a Protocol of standards applicable to and ensuring that United Nations organs and subsidiary bodies provide civil society and other stakeholders the ability to consult on matters of policy and process in a manner that is effective, equitable, and transparent.**

Comments on Chapter III

The principal innovation in this Chapter is the inclusion of an explicit Charter requirement that the General Assembly and the Parliamentary Assembly establish guidelines for granting effective United Nations access to civil society and other stakeholders on an equitable and transparent basis.

CHAPTER IV

THE GENERAL ASSEMBLY AND PARLIAMENTARY ASSEMBLY

COMPOSITION

Article 9

1. The General Assembly shall consist of all the Member **States** of the United Nations.
2. Each Member **State** shall have not more than five representatives in the General Assembly.

Article 10

1. The composition of the Parliamentary Assembly shall be established by a Protocol to this Charter to be adopted by Member States, in conformity with the following principles:
 - a. Membership in the Parliamentary Assembly shall be allocated degressively proportional to the population of the Member States;
 - b. Each Member State shall be allocated a minimum of two representatives and no Member State shall be allocated more than 10 percent of seats;
 - c. The total number of members shall not exceed 800 and shall not be lower than 400;
 - d. In the first ten years following the entry into force of this Second Charter, the size of the Parliamentary Assembly shall not exceed 600 members.
2. The Protocol on the composition of the Parliamentary Assembly can be amended by a concurrent two-thirds majority of the General Assembly and the Parliamentary Assembly.
3. Each Member State shall decide whether its allocated seats are to be chosen 1) from within its legislative branch by a vote of national elected representatives, or 2) by popular vote in free, fair and competitive elections based on the principle of proportional representation. In the event of the first option, the election shall reflect as well as possible the proportional representation of different political groupings within the legislative branch. Member States are encouraged to opt for the second option.
4. Member States shall establish procedures to ensure that the gender allocation of representatives to the Parliamentary Assembly is consistent with principles of equity.
5. Each member of the Parliamentary Assembly shall serve for a four-year term, subject to a two-term limit.

Article 11

1. Members of the Parliamentary Assembly shall be independent from Member States. Member States and their representatives shall not give instructions to Members of the Parliamentary Assembly.
2. Any Member of the Parliamentary Assembly who receives and complies with such instructions or who holds an official position within an executive branch of a member state, or within the United Nations, or any other public international organization shall not be accredited, or continue to be accredited, to the Parliamentary Assembly.
3. Members of the Parliamentary Assembly for the duration of their term shall be provided with privileges and immunities equivalent to those granted to UN personnel, to ensure their independence according to paragraph 1.

FUNCTIONS AND POWERS

Article 10

~~The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.~~

Article 11

~~1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.~~

~~2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.~~

~~3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.~~

~~4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.~~

Article 12

1. The General Assembly is the chief deliberative and policy making body of the United Nations.

2. The General Assembly and the Parliamentary Assembly shall have the power:

- a. to make recommendations on any questions or any matters within the scope of this Charter, including matters on the agenda of the Councils or other organs and entities of the United Nations as well as general principles of co-operation and international law, except as provided in Article 13;
- b. to call the attention of the Councils or other organs and entities of the United Nations to disputes and situations which fall under their responsibilities;
- c. to provide oversight over the actions, operations and decisions of the Councils or other organs and agencies of the United Nations;
- d. to elect the members of other organs and bodies of the United Nations as provided for under this Charter.

3. In the event that a lack of unanimity of the permanent members of the Security Council prevents the adoption of a Security Council resolution, the General Assembly and the Parliamentary Assembly acting concurrently by a two-thirds vote of each Assembly may determine that the resolution shall take effect.

4. In order to promote the establishment and maintenance of international peace and security and implement the goal of general and complete disarmament, the General Assembly in consultation with the Parliamentary Assembly shall adopt a Protocol on Disarmament and

ensure that the Member States of the United Nations observe all its provisions.

5. The General Assembly and the Parliamentary Assembly shall strive to take coordinated and concurrent action, as they deem appropriate, as to their individual powers under paragraph 1 (a), (b) and (c).

Article 132

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly **and the Parliamentary Assembly** shall **not make refrain from making** any recommendation with regard to that dispute or situation unless the Security Council so requests.

~~2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.~~

Article 14

Each Member State of the United Nations undertakes to give prompt and due consideration to implement any recommendation addressed to such Member State by the General Assembly or the Parliamentary Assembly under Article 12, and to report promptly and in any case within the timeframe set by that Assembly on what action was taken or, if no action was taken, its reasons therefor.

Article 15

1. If the General Assembly and Parliamentary Assembly determine the existence of an exigent situation that threatens human species survival in whole or in part, notwithstanding other principles or instruments of international law, they shall be empowered to promulgate resolutions aimed at ameliorating the exigent situation. Such resolutions shall be universally binding on states and superior to conflicting treaties. When such resolutions so indicate, they shall be directly applicable to non-state actors.

2. Such resolutions must be approved by at least a four-fifths vote of both the General Assembly and the Parliamentary Assembly.

3. In accordance with the principles of subsidiarity, proportionality, and uniform, equal, and nondiscriminatory treatment under Article 2(11) (a)(b) and (c), such resolutions shall be restrictive only to the extent strictly necessary and shall accord with the principle of equal treatment in their application to both state and sub-state actors.

4. In accordance with Article 2(11)(d) such resolutions shall not contravene well-established principles of international human rights and humanitarian law.

5. Such resolutions shall not apply to action with respect to threats to the peace, breaches of the peace or acts of aggression under Chapter VII.

6. The consistency of such resolutions with the provisions in this Article, or the Charter generally, shall, in accordance with Article 36(1) of the Statute of the International Court of Justice, be reviewable by that Court which shall be the final arbiter as to their legality.

Article 163

1. The General Assembly **and the Parliamentary Assembly individually or concurrently** shall initiate studies and make recommendations **in particular** for the purpose of, **but not limited to:**

- a. ~~encouraging the progressive development of international law and its codification; promoting international co-operation in the political field and encouraging the progressive development of international law and its codification;~~
- b. promoting international co-operation in the **political**, economic, **environmental**, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all human beings without distinction. ~~as to race, sex, language, or religion.~~

~~2. The further responsibilities, functions and powers of the General Assembly or the Parliamentary Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.~~

Article 14

~~Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.~~

Article 15

~~1.2. The General Assembly **and the Parliamentary Assembly** shall receive and consider annual and special reports from the **Security Councils and the other organs of the United Nations;** ~~these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.~~~~

~~2. The General Assembly shall receive and consider reports from the other organs of the United Nations.~~

Article 16

~~The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.~~

Article 17

1. The General Assembly shall consider and approve the budget of the **Organization United Nations.** **The budget shall go into effect upon final approval by the Parliamentary Assembly.**

2. The expenses of the **Organization United Nations** shall be borne by the Member States as apportioned by the General Assembly, **subject to final approval by the Parliamentary Assembly, as well as other means as determined by a Protocol to this Charter on budget and funding initially adopted by Member States.**

3. **The General Assembly and the Parliamentary Assembly shall have the power to enact such regulations as are authorized by the Protocol on budget and funding, in particular related to**

the borrowing of funds on the credit of the United Nations.

34. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57, **subject to final approval by the Parliamentary Assembly**, and shall examine the administrative budgets of such specialized agencies **with a view to making recommendations to the agencies concerned as well as allocate to them in the annual budget of the United Nations such funds as it deems necessary for their expenses.**

VOTING

Article 18

1. Each member of the General Assembly **and each member of the Parliamentary Assembly** shall have one vote.
2. ~~Decisions of the General Assembly on important questions shall be made by~~ Unless the present Charter, any of its Protocols or relevant Rules of Procedure require otherwise, decisions on important questions requiring a two-thirds majority ~~of the members present and voting. These questions shall vote of the General Assembly~~ include: **recommendations with respect to the maintenance of international peace and security,**
 - a. the election of the **non-permanent** members of the Security Council, the **election of the members of the** Economic and Social Council, **the Human Rights Council, and the Earth System Council.**
 - ~~b. the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86,~~ the admission of new Member **States** to the United Nations,
 - c. the suspension of the rights and privileges of **Member States membership,** and the expulsion of Member **States,** ~~questions relating to the operation of the trusteeship system, and budgetary questions.~~
3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting **in each Assembly.**
4. **Decisions on budgetary questions, including amendments to the Protocol on budget and funding, shall be made by a two-thirds majority decision of the General Assembly and a majority decision of the Parliamentary Assembly, whether or not present and voting, which, in respect of votes in the General Assembly, shall include a majority of the Member States of the United Nations whose allocated financial contributions would represent the ten largest shares in the existing budget or a new budget voted upon.**

Article 19

A Member **State** of the United Nations which is in arrears in the payment of its financial contributions to the **Organization United Nations** shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member **State** to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member **State.**

PROCEDURE

Article 20

The General Assembly **and the Parliamentary Assembly** shall meet, **separately or concurrently**, in regular annual sessions and ~~in such special sessions~~ as occasion may require **in special sessions convened under their Rules of Procedure. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.**

Article 21

1. The General Assembly **and the Parliamentary Assembly** shall adopt ~~its~~ **their** own rules of procedure ~~It shall elect its President for each session as well as joint rules that govern their interaction.~~
2. The rules shall ensure broadly balanced gender representation in the election of each assembly's President. No three consecutive Presidents shall be of the same gender. The rules shall further ensure that deliberations of the General Assembly and the Parliamentary Assembly as well as their subsidiary bodies are conducted in a transparent and inclusive manner.

Article 22

1. The General Assembly **and the Parliamentary Assembly shall may** establish **joint or separate such** subsidiary **organs bodies** as ~~it~~ **they** deems necessary for the performance of ~~its~~ **their** functions.
2. **The General Assembly and the Parliamentary Assembly shall make suitable arrangements for consultation with non-governmental organizations and other stakeholders.**
3. **The Parliamentary Assembly shall ensure in its Rules of Procedure that its functioning and work facilitate transnational deliberation and co-operation among its members with the perspective of advancing the common good of all the world's people.**
4. **The joint rules of the General Assembly and the Parliamentary Assembly shall include procedures and conditions establishing the mechanism of a World Citizens' Initiative available to all global citizens as well as representative and deliberative Global Citizens' Assemblies composed of randomly selected global citizens.**

Comments on Chapter IV

General Observations

The nature of the UN as an intergovernmental organization is not changed as the General Assembly (GA) retains its functions in Chapter IV and throughout the Charter. It is made clear, under Article 12, that the GA is the chief deliberative and policy making body. However, the GA's role is strengthened by establishing a companion Parliamentary Assembly (PA).

The idea of establishing a second chamber representing citizens at the United Nations goes back to the organization's inception. Indeed, the idea is older than the UN; the founders of the League of Nations for a time considered adding a people's assembly as part of the League's initial organizational structure. One key motivation was to enhance the representative character of the UN by establishing a firmer linkage between the organization and the peoples it was meant to serve. The General Assembly, which comes closest among the UN's existing bodies to representing the will of the people, falls far short of this. Those who serve on it are diplomats representing the executive branches of their respective governments and the linkages between them and the citizens of many of their countries are very attenuated in both structure and practice.

Representing the interests of the global citizenry, a new PA could bring in a fresh global perspective on the broad array of unresolved problems which we currently confront. It would be in a stronger position to promote higher levels of international co-operation because its members would be called upon to see such problems through the lens of humanity's better interests rather than through narrow national considerations. The PA could be a much more effective catalyst for advancing the process of reform and transformation at the United Nations itself because its members would have a much looser linkage with their respective governments and their specific national—as opposed to global—priorities. Such a body could also play a role in reinforcing democratic tendencies in many corners of the world, an important consideration given that the General Assembly itself on a number of occasions has expressed its unambiguous support for democratic forms of governance for its members.¹

In light of this, and as outlined in our initial conclusions,² we put forward here the view that the Second Charter should feature a Parliamentary Assembly as a second chamber alongside the General Assembly³ In the Second Charter under consideration, the GA and PA both are to be included as main organs which are vested individually and jointly with distinctive rights and responsibilities.

Adding a separate chapter on the PA to the Second Charter was considered but not found to be useful as the functions and responsibilities of the GA and PA in a bicameral setup are strongly aligned and often shared. Conceptually and practically, it turned out to be more efficient to include relevant provisions on a PA in a revised Chapter IV which then covers the GA and PA at the same time.

Other considerations

Gender balance

Article 10 (3) addresses the issue of gender balance in the composition of the PA. We included a provision requiring gender equity. At present, according to data compiled by the Inter-Parliamentary Union, on average the share of women in parliaments worldwide in 2023 stands at 26.9 percent. A range of studies demonstrate that the benefits of higher participation of women—for example, in village councils, national parliaments, and corporate boards in publicly listed companies—improve the process of decision-making. Therefore, based upon considerations not only of fairness, but also of enhancing the quality of decision-making, we provide for an equitable gender requirement as a very important component of our proposed Second Charter.⁴

Direct elections of PA members and term limits

Under Article 10 (3) countries, including especially those that believe they have the institutional machinery in place to conduct credible election of PA members, could provide for direct elections to the Parliamentary Assembly by citizens.

The rule pertaining to composition, as presented in Article 10 (3), builds on the example of most existing IPIs attached to an intergovernmental organization (election from within national parliaments) but allows progressive countries to opt for popular elections which are the aspired long-term ideal for all. For instance, the European Parliamentary Assembly made the transition in the late 1950s from a deliberative, largely advisory body made up of members of parliament from the six founding members of the EU to the European Parliament in the late 1970s with members elected among member countries in direct elections.

One question which may require further consideration is whether provisions should be made for the allocation of some seats in the PA to stateless minorities and other groups which are otherwise not represented via UN Member States, on the grounds that the PA should give voice to all people. Co-optation of members has been proposed in the literature as a possible option.

As noted in Article 10 (4) PA members would serve for four-year terms, subject to a two-term limit. We think that this would be desirable to avoid the emergence of a professional political class for whose members long tenures in office can sometimes contribute to a shift in incentives and motivations, with remaining in office at times trumping all other considerations. Deliberative bodies can also

benefit from infusions of fresh blood, new perspectives and the energy of younger (perhaps more idealistic) new generations of leaders. One would hope also that the PA would be good training in the workings of participatory consultative processes, and this could be an invaluable experience for members from countries with limited, imperfect, or non-existent traditions of unimpeded deliberations.

Article 10 (4) means that once a member is selected, the membership will run for four years, irrespective of other changes. For instance, if a member is selected from within a parliament, according to para. (3), and the member forfeits the seat in the national parliament, the seat in the PA remains unaffected. In other words, a selection cannot be repealed under this rule, although provisions would be made for by-elections in the case of incapacity or death.

Legal protections

We also think that there is merit to the idea that PA members should be provided with legal protections (Article 11 (3)), in particular against possible retaliation from their home governments for taking positions which they might perceive in the global public interest, but which governments might judge as counter to established national priorities and/or policies, as determined by the government then in power.

Diversity of political regimes in member states

One early challenge in the setting up of the PA would be how to manage the participation of non-democratic and/or authoritarian regimes. Painful tradeoffs are likely. On the one hand, since the PA is brought into being to imbue the UN with a greater degree of representative legitimacy, one would favor processes for the election of its members that would exemplify the very principles of accountability, transparency, consultation, and rule of law which underpin accepted norms of good governance. On the other, one would wish for a PA that was truly universal in its representation of the human family and this would mean, inevitably, including those parts of the world where citizens, often through no fault of their own, are ruled by autocratic regimes and governments that either do not believe in the periodic legitimization of rule through the ballot box and/or would not wish to put themselves through that test.

There may be no easy solution to this particular quandary in this first stage in the life of the PA. However, the existence of authoritarian regimes did not prevent the creation of the UN itself and the General Assembly's membership is made up of fully democratic states, some that are flawed in their democratic character, and many others that are characterized by various shades of authoritarianism.

That is, unfortunately, the state of democracy in the world today. Slightly more than 39 percent of the countries included in The Economist's Democracy Index 2023 are authoritarian regimes of some form or other.⁵ But, as noted earlier, their presence in the General Assembly has not prevented that body from endorsing democratic and participatory forms of governance as the most desirable option for its members. So, rather than wait for the time when all members will be democratic—possibly a very long time—we would favor an approach that was broadly inclusive, and that as long as the majority of the PA's members were democratic, the Assembly could still function effectively and be a catalyst for change.

In respect of the Protocol that would establish various practical aspects of the operations of the PA it would be desirable to establish a list of minimum qualifications that would need to be fulfilled to be accepted into membership. One such criterion for membership would be that there be no pending legal cases against the member for financial improprieties. More generally, rather than establishing criteria that would aim for the lowest common denominator, one would wish to encourage the selection of members who were recognized objectively for their integrity and a distinguished life of public service. In this respect, one option worthy of serious consideration would be to ask

national parliaments to elect its PA members by secret ballot, to free voting members from the usual sectarian/partisan pressures that so often stand in the way of electing the most capable and worthy candidates. In any case, given the current state of democracy in the world, it is to be expected that the PA would have a clear democratic majority among its members.

Distinction between principles and technical rules

Article 10 includes provisions on the composition and membership of the PA. There is general agreement that the Charter should mainly identify broad aims and principles whereas more detailed rules such as the exact apportionment of seats might be best left to a Protocol.⁶ This would facilitate making changes at that level of detail over time and avoids overburdening the Charter text with technicalities.

There is often some ambiguity on the question of whether a certain proposal qualifies as a principle to be included in the Charter, or as a technicality, to be included in the relevant Protocol. The principles under Art. 10 (1) a) to c) arguably belong in the former category. Equivalent determinations regarding the European Parliament are to be found in Art. 14 (2) of the EU Treaty.

The principle of degressive proportionality

State and citizen representation (“one state, one vote” and “one person, one vote”) need to be brought into a workable balance and the only variable used to determine the allocation of seats in the PA is population size. More concretely, demographically small states should not be put at a disadvantage. This is embodied in the principle of degressive proportionality under Article 10 (1) a), meaning that smaller states would be entitled to more seats than would be called for under a system that allocated places strictly in proportion to their population. This principle would be applied subject to the two constraints identified in Article 10 (1) b) on the minimum number of seats per member state and the maximum number of members in the PA. Regarding the total number of seats, the Charter text under paragraph (1) c) gives flexibility to determine any number between 400 and 800 via the Protocol. The table at the end of this Chapter presents a possible PA membership scenario.

Ten-year size limitation

Article 10 (1) d) provides that the PA in the first ten years shall not exceed 600 members. The idea is to gain experience before opening up the possibility of a larger assembly. While this is not prescribed under the Charter provisions, we anticipate that the size after the ten-year period may be increased to 600 members and later to the full 800 members.

GA and PA powers, codifying *Uniting for Peace*⁷

The GA is the chief deliberative and policy-making organ of the UN as Article 12 (1) makes clear. This means that it is the GA that establishes mandates for the Councils and other organs as appropriate, while the SC retains its primary responsibility for the maintenance of international peace and security.

Article 12 distinguishes between two categories of actions and powers. Under (1) a) to c), each assembly, GA or PA, can take action individually and separately in principle although (3) calls on them to coordinate as they deem appropriate. While the Councils also qualify as “other organs” they are explicitly mentioned in order to emphasize that the GA and PA can and will address them.

Article 12 (2) codifies a key element of the *Uniting for Peace* instrument. The Security Council retains its primary responsibility for the maintenance of international peace and security, but if a SC resolution does not pass due to a veto of one or more members of the P5 (“lack of unanimity of the permanent members”), the GA and PA under this paragraph can override any veto by determining that the resolution shall nonetheless be deemed passed. The respective resolution remains an SC resolution.

Binding decisions if there is “an exigent situation that threatens human species survival in whole or in part” under Article 15

In considering a framework for granting the General Assembly and Parliamentary Assembly powers to create binding law, we confronted the sad reality that while humanity’s survival may require states to conform to legislation on matters of vital global concern, states continue to be strongly resistant to conceding even a modicum of their sovereignty. Or, as one of us concluded, we are watching in slow-motion the paradox of the unstoppable force of apocalyptic global problems heading into the immovable object of state sovereignty.

In our draft provision we attempt to resolve this paradox by implicitly presenting states with a one-sided bargain heavily weighted in favor of reform: Cede state sovereignty to the narrowest extent possible and, in exchange, avoid head-on collision with potentially apocalyptic global problems.

We provide that the General Assembly and Parliamentary Assembly can only exercise binding powers after overcoming the high hurdle of determining the existence of an exigent situation that threatens human species survival in whole or in part.⁸ Even when this hurdle is overcome, the ability to exercise binding legislative powers is highly constrained. For a measure to be approved, there must be a four-fifths supermajority in each of the two different assemblies. Measures must not contravene the principles of subsidiarity (which requires national-level solutions whenever possible) or proportionality (which requires that the measures be designed to be as minimally restrictive of states and non-state actors as possible). Measures are further constrained by principles of uniform, equal and nondiscriminatory treatment (or in American Constitutional parlance, equal protection) and, therefore, cannot be aimed specifically at an individual country or countries. Finally, measures must not contravene well-established principles of human rights and humanitarian law. (While stated generally, this provision presumably requires that resolutions comply with the United Nations’ own Universal Declaration on Human Rights and widely accepted treaty law generally acknowledged to have the status of customary international law.) Compliance with these requirements, is secured through judicial review by the International Court of Justice.⁹

We would hope that, presented in this way, the rhetorical case could be made most strongly to countries that, on balance, such a minimal loss of sovereignty would be substantially outweighed by the hope of ameliorating humanity’s most apocalyptic problems in the areas of environmental catastrophe, the proliferation of weapons of mass destruction, and pandemics, to name the most salient.

Other options under Article 15

Beyond the draft article above, another option would be to grant authority to one of the councils to act legislatively in a specific limited area where the need to take action is of the greatest global urgency. Once trust in the chosen counsel’s responsible use of its limited legislative power is built over time, then governments might be ready to take further small steps forward.

For example, the Earth System Council,¹⁰ could be empowered to adopt binding regulations to address the climate emergency. The Council could be empowered in the Charter to establish limits on greenhouse gases consistent with the scientific consensus that global heating must be kept within 1.5°C. Criteria for ensuring that legislation conforms to the principle of common but differentiated responsibilities, such as requiring that remedial measures take into account historic contributions to greenhouse emissions and countries’ financial, social and technological capacity to address the climate emergency, could be included in the Charter, as could provisions for assistance to poorer countries.¹¹

A final option, rather than legislation, with fewer institutional implications, would be a global financial instrument, applying the “polluter pays” principle; see the discussion in the Comments section at the end of Chapter XII on the Earth System Council.

Decision-making on the UN budget

Article 17 (1) determines the role of the GA and PA in the drafting and approval of the budget. Because in the early years following adoption of the new Charter the budget would still largely be funded via Member State contributions it is envisaged that Member States through the GA would put forth a draft of the budget. As funding from sources independent of Member States emerges, via global taxation for instance, the PA's role may be expanded. As the PA's confirmation is needed in any case, the PA will likely establish a budget committee that the GA will consult with at the level of detail to avoid a situation where the budget approved and put forward by the GA is not confirmed by the PA. The same approach has been taken in the other cases included in this Article: the GA makes the necessary determinations which are then subject to confirmation of the PA. In other cases of internal governance, the GA and PA both may be able to initiate a decision; drafting the budget, which is thought to require special technical expertise and involvement of Member States, is an exception to that rule.

As with the Protocol on an international peace force mentioned in Chapter VII, there will be a Protocol on budget and financing issues. In *A Second Charter: Imagining a Renewed United Nations* we highlighted the main core issues that arise in this important area. Such a Protocol would be regarded as an important element of a Second Charter; a final fully worked out text will be available in 2025.

“Other means” of funding and Protocol on budget and funding

Article 17 (2) makes it possible to determine “other means” of funding via the Protocol on budget and funding and paragraph (3) clarifies this can include borrowing. The Protocol is first (“initially”) adopted by Member States and later amendments will require GA and PA votes according to Article 18.

Article 17 (2) and (3) means that global taxation may be agreed upon via the Protocol without amending the Charter, since the Charter authorizes the GA and PA to enact regulations included in the Protocol. The words “in particular” imply that borrowing money is an example and not an exclusive list of options.

A strong case can be made¹² that, over time, the UN would need to be given the capacity to generate its own revenue streams (as is currently done in the European Union). This need not involve the UN establishing a separate revenue collection machinery. Tax collection would continue to be a responsibility of member states, but fractions of certain taxes could be earmarked to the UN budget, as has been done already very effectively for several decades in the EU.

Majority requirements for budgetary decisions

Article 18 (4) makes it necessary that 2/3rds of the GA and PA as well as a majority of the ten largest Member State membership fee contributors need to agree to budgetary decisions (whether or not present and voting). The rationale for this is that the support and approval of the main contributors is necessary; whereas a scenario in which they are outvoted is not viable. In the UN's current practice, the budget is adopted by consensus for this reason. Giving the large budget contributors a significant say on budgetary matters is a practice that may evolve over time, particularly as sources of funding emerged that were independent from membership contributions of Member States. As the link between funding and Member States weakens, the relevance of the largest membership contributors would also likely decrease. In the current proposed voting arrangement, the largest contributors are potentially in a position to block decisions on raising funds from other sources of income.

Member State arrears with no effect on PA members

As governments are responsible for paying UN membership fees, only their votes in the GA under Article 19 should be affected if they are in arrears, with no effect on PA members of a given country (which may actually be in opposition to a given government; otherwise, they could be silenced by a government not paying its UN fees, which would constitute a wrong incentive).

Transnational groups

The sentence proposed for Article 22 (3) is a compromise emerging from a discussion on whether or not the Charter should prescribe that the functioning of the PA is to be based on transnational groups formed by its members and if so, at what level of detail. The proposed language emphasizes, in general terms, the importance of the PA facilitating transnational deliberation and co-operation by its members.

Members of the PA conceptually are not representatives of the Member States they originate from; these are present in the GA instead, and PA members should thus be called upon to seek policies and solutions from the perspective of global citizens and the global common good. If PA members organize in national delegations and in geopolitical groups, this goal will be seriously undermined and deliberations will tend to mirror those in state-based bodies such as the GA. If a new dynamic is to emerge in the PA, it is essential that it overcomes geopolitical formations and blocs, either national or regional. National voting blocs of PA members, in particular, should be discouraged. Otherwise the PA's added value will be limited.

In the most important and most developed IPI thus far, the European Parliament, facilitating a European perspective of members has been achieved, since the 1950s, by the formation of transnational groups. These groups play a key role in the European Parliament's procedures.

As the question of transnational groups is deferred to the Rules of Procedure, as per the current draft, the same should apply to other arrangements, such as if and how Committees may co-opt advisory members.

Innovative forms of citizen participation and deliberation

Under Article 22 (4), the Second Charter opens the door toward the implementation of two modern and innovative instruments of citizen participation and deliberation through the joint Rules of Procedure of the GA and PA. The Charter does not prescribe details.

An indicative scenario for Parliamentary Assembly representation

The table below shows an indicative scenario for what a Parliamentary Assembly with 800 members could look like. The scenario assumes that Member States with small populations would have at least two members sitting on the PA. Member States themselves would come up with a distribution of seats based on the principle of degressive proportionality.

Table 1:
Indicative UN Member State Representation in a Parliamentary Assembly

Seats per nation	No. of nations	%	No. of seats	%	Pop. in millions	%	Average pop. per seat in millions
2	67	34.72	134	16.75	81.432	1.04	0.61
3-4	70	36.27	237	29.63	777.532	9.95	3.28
5-6	37	19.17	194	24.25	1535.561	19.65	7.92
7-20	17	8.81	159	19.87	2592.76	33.17	16.31
21-38	2	1.03	76	9.50	2828.92	36.19	52.39
Total	193	100	800	100	7816.21	100	9.77

CHAPTER V

THE SECURITY COUNCIL

Composition

Article 23

1. The Security Council shall consist of ~~fifteen~~ **twenty-five** Members of the United Nations. **China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect five other Members of the United Nations for a renewable six-year term from each of the five regions: Africa, Asia-Pacific, Eastern Europe, Latin America and the Caribbean, and Western Europe. In addition, the General Assembly will also elect fifteen other non-permanent members of the Security Council for non-renewable three-year terms, due regard being specially paid, in the first instance, to the contribution of each Member to the maintenance of international peace and security. The allocation of the fifteen non-permanent seats will conform to the following regional distribution: Africa (5), Asia-Pacific (4), Eastern Europe (2), Latin America and the Caribbean (3), Western Europe (1).** ~~The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.~~

~~2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.~~

~~23. Each member of the Security Council shall have one representative. The agenda of any General Conference provided for in Article 109, and to be held within the time limit prescribed in Article 109 (3), shall include reconsideration of the numeric regional distribution of non-renewable three-year seats.~~

Functions and Powers

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility, the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations **as spelled out in this Second Charter.** The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII ~~, and in Protocols I and II-XH.~~

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly **and the Parliamentary Assembly for their its** consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with this ~~present~~ Charter.

Article 26

~~In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.~~

Voting**Article 27**

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of **at least thirteen of the twenty-five** ~~nine~~ members.
3. **Subject to the provisions of Article 12 (3)** ~~Decisions of the Security Council on all other matters shall be made by an affirmative vote of~~ **at least two-thirds of the members, nine members** including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Procedure**Article 28**

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council, whenever the

latter considers that the interests of that Member are especially affected.

Article 32

1. Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

2. **In conformance with the Protocol adopted by the General Assembly and the Parliamentary Assembly pursuant to Article 8 (2), the Security Council shall make suitable arrangements for consultation with non-governmental organizations, civil society and other stakeholders which are concerned with matters within its competence. Such arrangements may also be made with international organizations.**

Comments on Chapter V

A revised Article 23

As indicated in Article 23 on Composition, the Security Council is expanded to have 25 members divided into three groups: five permanent, five non-permanent subject to renewable six-year terms with one seat allocated to each of the five UN-designated geographical regions, and 15 non-permanent subject to non-renewable three-year terms, with the slots in this latter group determined in relation to the number of UN Members in each of the five UN regions.¹⁵ Because France, the United Kingdom and the United States are all permanent members, the allocation of these 15 seats allows for one extra place for Africa, with the corresponding reduction made for Western Europe and Others, which also includes the United States. It would be left to member states to decide how to rotate membership in the Security Council across the 20 non-permanent slots, subject to the indicated regional ceilings on membership.¹⁴ These membership parameters could be reviewed from time to time, given changes in the external environment, particularly in respect of population trends.

Deletion of Article 26

The original Article 26 is a good example in the Charter of promises or intentions that have been largely unfulfilled. Not only did the world enter an expensive arms race soon after the UN Charter was adopted but, contrary to the letter of the Article, this involved a huge diversion of resources away from more pressing concerns directly linked to human development. Furthermore, the so-called Military Staff Committee never came into being and neither was a system established aimed at “regulating armaments.” Against this background of close to 80 years of effective paralysis, the Second Charter transfers this responsibility to the General Assembly and the Parliamentary Assembly; this is to be found in Article 12(4) which reads:

In order to promote the establishment and maintenance of international peace and security and implement the goal of general and complete disarmament, the General Assembly in consultation with the Parliamentary Assembly shall adopt a Protocol on Disarmament and ensure that the Member States of the United Nations observe all its provisions.

Article 27 and the veto

One issue which was discussed extensively by the team which put together this draft for the Second UN Charter concerned the question of the veto and its possible elimination. The issue was to what

extent does one respond to prevailing political realities and the likely opposition of veto-wielding members who have enjoyed this “privilege” since the organization’s founding, and to what extent does one go forward with proposals which, while not ignoring such political realities, are perhaps better aligned with the will of most UN members and the sense that, as currently constituted, the Security Council has become a rather dysfunctional body within the UN system.

The Second Charter does not explicitly remove from Article 27 (3) the phrase “including the concurring votes of the permanent members” which has been the basis for the veto but rather provides for a General Assembly and Parliamentary Assembly concurrent override to Security Council vetoes and narrowly tailored authority to create resolutions that are binding on states. Drawing on decades of experience, the draft expands upon the powers of the General Assembly to be shared with the new Parliamentary Assembly. It formalizes and expands on the already accepted Uniting for Peace procedure and the more recent Liechtenstein initiative to give the two bodies concurrent power to override a veto by a permanent member of the Security Council in exceptional situations. In addition, as already pointed out in the Comments to Chapter IV, in very limited exigent circumstances, it gives the two bodies collectively the power to promulgate resolutions that would be binding on states.

The Security Council veto: a brief historical overview

In the comments that follow we provide some historical background on the introduction of the veto in the Security Council and offer, by way of stimulating a conversation around this important issue, an alternative formulation of Article 23 which goes some way in helping address the issues of representation and governance within the Council.

It is useful to review briefly some of the history associated with the introduction of the veto. Two issues that came up in the early 1940s in the deliberations over the design and scope of the United Nations concerned the voting mechanisms and the distribution of power within the organization. Some experts, notably Grenville Clark, had argued for a system of weighted voting, with voting power linked to some objective criteria, such as population size, trade flows, economic size, and the like, to take into consideration the huge disparities in size and economic heft of the membership. This was not accepted and, in the end, as is well known, the General Assembly was established based on the principle of one-country-one-vote. Weighted voting was, however, adopted at the United Nations Monetary and Financial Conference of July 1944, bringing into being two institutions, the IMF and the World Bank.

Related to concerns over the voting mechanism, was the perception that a Security Council in which the five permanent major power members had veto power would turn the UN into an imperialistic organization in which the permanent members of the Council would be, de facto, running the world. The veto itself was perceived by many as undermining the democratic legitimacy of the organization, a practice that could not be defended based on any principle of just governance. Non-permanent members of the Security Council accepted to be limited by a two-thirds majority, whereas the permanent members accepted no such constraints. More importantly, some argued that a system was being created in which the organization would not be able to deal with problems and/or conflicts between the major powers or between a major power and a smaller allied country.

Since most major security problems in the future were likely to involve, directly or indirectly, one of the major powers, this gave rise to the concern that, given the strategic importance, economic size, and large geographic footprint of the Soviet Union, China, the United States and the British Commonwealth, the United Nations, as conceived, would be largely ineffective at doing what it was created to do, namely, “maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression

of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.” (Article 1.1)

The kinds of collective security interventions envisaged in Article 43 would inevitably clash with the principle of the “sovereign equality of states,” as opposed to an order based on principles of international law, as was made tragically clear with Russia’s unprovoked attack on Ukraine.

In the late 1950s, Grenville Clark and co-author Louis Sohn wrote *World Peace Through World Law* focused on reforming the restrained version of the UN Charter that emerged from the San Francisco conference. Those who put together the final draft of the UN Charter were not ready to contemplate the vision of an organization with limited binding enforcement powers over its member states and the associated instrumentality. Cord Meyer, a member of the US delegation to the San Francisco Conference, claimed in an impressively insightful 1946 article in *The Atlantic* that the delegates had fairly narrow margins of freedom, not only because of the need to ensure United States Senate ratification, but also because the broad outlines of the United Nations had been generally agreed to by Churchill, Roosevelt and Stalin during their meeting in Yalta in February of that year.

Meyer, who had served in the war, thought that the fundamental problem in San Francisco was the unwillingness of the major powers to give up any of the attributes of sovereign power, especially the freedom “from any interference by others in its internal affairs and equally free in its external affairs to make any decisions that it wishes.” Peace and security within the United States, Meyer believed, were guaranteed by a law-based system in which powers of the states were circumscribed and, in some areas, subordinated to those of the federal government, and where there was an unshakable and legally based commitment to resolve conflicts in a peaceful way. He was convinced that, at the international level, under the system created in San Francisco “any disagreement is a potential source of armed conflict, and each nation must rely, for the protection of its interests, on the amount of armed force it is able and willing to bring to bear in a given situation. We should frankly recognize this lawless condition as anarchy, where brute force is the price of survival. As long as it continues to exist, war is not only possible but inevitable,” prescient comments in light of the current war in Ukraine and other geopolitical hot spots.

Meyer was particularly harsh in his characterization of the veto power seized by the major powers for themselves. Among the consequences of the veto he noted that, “a major power can violate every principle and purpose set forth in the Charter and yet remain a member of the Organization by the lawful use of the veto power expressly granted to it.” Amendments to the Charter required ratification by the five veto-wielding powers, a feature that gave them the power to permanently prevent any change or reform whatsoever; and if one of the Big Five was not a party to a dispute, it could “prevent even the investigation of the case by the Security Council.”

The veto power would also have consequences for the application of the provisions included in the Charter allowing for the use of force in certain circumstances. In fact, Charter members agreed only to voluntarily make available to the Security Council a portion of their military forces when the Council saw fit to take military action. But in practice, the veto granted to the five major powers meant that they would be exempt from such actions being taken against them or against any smaller state which they wished to protect, such as Syria in the case of Russia in recent years.

Meyer thought that such a system, exempting the major powers in its most fundamental provisions for the application of the principle of the use of force, could not be characterized as being law-based in any meaningful sense of the word. Instead, it bordered on “hypocrisy or self-delusion” since the use of violence could be justified as police action only in a system in which the same rules applied to all participants in an even-handed way. In summary, he wrote, “the International Organization is, at present, as incapable of dealing with the probable causes of another war as a fire extinguisher is of quenching a forest fire”—again a sad commentary on the current impotence of the UN to address

the dire situation in Ukraine and other critical conflicts.

Meyer was sympathetic with the views voiced by New Zealand Prime Minister Fraser during the San Francisco conference who, speaking on behalf of smaller nations “upset the monotonous ritual of empty oratory and petty disagreement into which the Conference often subsided” by referring to the Charter as “a series of platitudes—and petrified platitudes at that.” Touching upon the same points raised by Clark the previous year about the watering down of the Charter that took place to ensure United States Senate approval, Meyer wrote that “the final price paid for Senate approval is an Organization that the United States can join and still retain intact every attribute of independence. The record of the hearings in the Senate Foreign Relations Committee are a tragi-comic commentary on what was achieved at San Francisco. To allay the fears of even the most unregenerate isolationist, every impotent inadequacy of the Charter was stressed as a positive assurance that in ratifying it we were committing ourselves to nothing.” Indeed, the UN Charter, an International Treaty, was ratified by the United States Senate in July of 1945 by a vote of 89-2, without reservations.

The views of Clark and Meyer are important because they were both extremely well-connected observers of the process and of the thinking that went into the design of the UN Charter and associated UN institutions. Also, because they were inordinately prescient in identifying the consequences for international peace and security resulting from the weaknesses and flaws that were embedded in the organization, as the price for its creation.

The UN veto power has paralyzed the UN at a time when the multiple global crises we confront call for an effective, problem-solving organization that will enhance our capacity for international co-operation. If it is not abolished it will not only hamper the organization in its effort to remain faithful to its noble founding principles, but it will ultimately diminish its remaining moral authority without which it cannot hope to remain relevant in an interdependent world.

An Alternative Article 23

Article 23

1. The Security Council shall consist of all Members of the United Nations. Members’ voting power will be determined under a system of degressive proportionality linked to the size of their population, with the first such allocation based on the latest estimates published by the United Nations Population Division. Subsequently, population numbers shall be based on world censuses carried out under the auspices of the General Assembly. The first census shall be taken within five years after the coming into force of this Second Charter and subsequent censuses shall be taken every tenth year thereafter, in such manner as the General Assembly shall direct. The General Assembly shall make a reapportionment of the voting powers within two years after each such census.

2. Each member of the Security Council shall have one representative. Members of the United Nations shall be allocated to 25 chairs in the Council, with China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America entitled to one such chair on an open-ended basis for an initial ten-year period. The General Assembly shall allocate the other 20 seats to five geographical groupings: Africa (6), Asia-Pacific (6), Eastern Europe (2), Latin America and the Caribbean (3) and Western Europe (3), with numbers based on each region’s share of the total number of Member States, for three-year rotations. Regional clusters will choose a spokesperson to seat on the Council on behalf of their members and this position will rotate over time, ensuring that all members will have a voice and a vote in the Council’s deliberations at all times.

Implications of this alternative version of Article 23

The above revised version of Article 23 explicitly eliminates the distinction between permanent and non-permanent membership and makes every country a member under a system of weighted voting linked to degressive proportionality based on population. This version solves the problem of representation, avoiding the current situation where 62 members have never served on the SC and large countries (e.g., Japan, Germany, India, Brazil, Indonesia, Nigeria, others) have only served sporadically during its 79-year history. Degressive proportionality has served the EU well, in part because the population difference between the most populous member (Germany) and the least populous one (Malta) is not exceedingly large; that ratio stands today at about 170. Population differences, however, are much larger for UN members; the equivalent ratio today is about 117,000. But this is a technical challenge amenable to workable solutions. An Annex at the end of this Chapter presents further technical details. To avoid a situation where China and India, the two most populous countries in the world, end up skewing voting shares in their favor, the voting shares of the three largest members are set at 10 percent each, a middle ground that recognizes their large footprint in the world as countries but preserves the concept of degressive proportionality by boosting the share of smaller countries.

Furthermore, it must be noted that the current Security Council already operates, conceptually, under a system of weighted voting, where the criteria used to weigh members' voting power is not population or some such metric, but is, rather, "time served in the Council." So, for a citizen of one of the 62 countries which have never served on the Council, her country has a voting weight of zero. Since data is available on membership in the SC for all 79 years for all members, it is simple to calculate weights for all 193 members, weights which change slightly every two years as 10 non-permanent members add two years to their length of service in the Security Council.

A possible objection to the composition structure presented in this version of Article 23 might be that there would be a possible loss in efficiency if all members are to be really included in decision-making, particularly in a context in which political and economic power in the world is highly diffuse and where, arguably for the foreseeable future, large countries could continue to have an outsize influence in major decisions. The counterargument is to clarify that Security Council deliberations would not take place around a large table with 193 chairs. The governance structures of the IMF and World Bank give a voice and a vote to all members, but the 25 chairs cluster countries in groups and there are internal deliberations within them which then get aired by their chosen spokesperson. So, to take an example: Argentina, Bolivia, Chile, Paraguay, Peru and Uruguay share a single chair among them. On a two-year rotation, they choose who will represent them in the decision-making process at their respective Boards. The process has worked well in practice since 1944 and, importantly, all members feel they have a voice, even though they may sometimes express their views through their chosen representative. Indeed, these six countries get together once a decade to decide the sequence of spokespersons, so that, over the longer term all are represented, though Argentina, as the largest country in the group, would do so slightly more often. There is no reason for this process to be less efficient than today's Security Council which most analysts would agree is fully dysfunctional.

The table below shows voting shares in the Security Council for this version of Article 23. The methodology used allocates a voting share of 10% equally to China, India, and the United States and allocates voting shares under a system of degressive proportional representation based on population to the other 190 UN members.¹⁵

Table 2:
Allocation of Voting Power in a Reformed Security Council:
Selected Countries

Country	Scenarios		
	Raw population ¹	Adjusted population share ²	Voting shares in UNSC ⁴
China	1411.75	11.557	10.000
United States	333.530	3.644	10.000
India	1417.17	11.592	10.000
Germany	83.798	1.648	1.154
Italy	59.030	1.245	0.872
Sweden	10.552	0.314	0.220
Japan	125.171	2.272	1.591
United Kingdom	67.791	1.391	0.974
Brazil	203.063	3.346	2.343
Russian Federation	143.442	2.534	1.774
Indonesia	274.859	4.782	2.869
Nigeria	216.747	3.526	2.468
Mexico	130.118	2.344	1.641
Ethiopia	104.082	1.961	1.372
South Africa	60.604	1.272	0.890
South Korea	51.635	1.119	0.783
Argentina	46.300	1.026	0.718
Lao's People Democratic Republic	7.477	0.238	0.167
Moldova	2.541	0.101	0.070
Saudi Arabia	32.175	0.766	0.537
Egypt	103.600	1.953	1.367

1. Raw population for each country. Data is for 2022.

2. Adjusted population for each country is derived by taking raw population figures and raising it to the 0.8 power, to implement the principle of degressive proportionality.

3. Voting shares are allocated in two ways. For members other than India, China and the United States, shares are allocated under a system of degressive proportionality. For India, China, and the United States, the three largest population blocks in the world, voting shares are set at 10 percent.

The next table uses two variables to determine voting shares: population and relative assessed contributions to the UN budget.

Table 3:
Allocation of Voting Power in a Reformed Security Council:
Selected Countries

Country	Scenarios			
	Raw population ¹	Adjusted population share ²	Budget share ³	Voting shares in UNSC ⁴
China	1411.75	11.557	15.254	13.405
United States	333.530	3.644	22.000	12.822
India	1417.17	11.592	1.044	6.318
Japan	125.171	1.664	8.033	4.848
Germany	83.789	1.207	6.111	3.659
United Kingdom	67.791	1.019	4.375	2.697
France	65.647	0.993	4.318	2.655
Brazil	203.063	2.450	2.013	2.231
Russian Federation	143.442	1.855	1.866	1.861
Indonesia	274.859	3.121	0.549	1.835
Nigeria	216.747	2.581	0.182	1.382
Mexico	130.118	1.716	1.221	1.468
Ethiopia	104.082	1.435	0.010	0.723
South Africa	60.604	0.931	0.244	0.588
South Korea	51.635	0.819	2.574	1.697
Argentina	46.300	0.751	0.719	0.735
Lao's People Democratic Republic	7.477	0.175	0.007	0.090
Moldova	2.541	0.074	0.005	0.039
Saudi Arabia	32.175	0.561	1.184	0.873
Egypt	103.600	1.430	0.139	0.784

1. Raw population for each country. Data is for 2022.

2. Adjusted population for each country is derived by taking raw population figures and raising it to the 0.8 power, to implement the principle of degressive proportionality.

3. Contributions by member states to the UN budget. Data is for 2024.

4. Weighted average between adjusted population and budget share.

CHAPTER VI PACIFIC SETTLEMENT OF DISPUTES

Article 33

1. The parties to any dispute **or to any situation which might lead to international friction, give rise to a dispute, ~~the continuance of which is likely to~~** endanger the maintenance of international peace and security, **or result in large-scale loss of life**, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute **or adjust the situation** by such means.
3. **The Security Council shall hold regular joint sessions with the Economic and Social Council, the Human Rights Council and the Earth System Council in order to address prevention of conflict and sustaining peace.**

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction, ~~or give rise to a dispute, endanger the maintenance of international peace and security, or result in large-scale loss of life or significant conflict, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.~~

Article 35

1. Any Member **State** of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the **General Assembly, the Parliamentary Assembly or the Security Council to deal with such dispute or situation ~~or of the General Assembly.~~**
2. A **party to any dispute or to any situation of the nature referred to in Article 33, where that party state which** is not a Member **State** of the United Nations, may bring **such dispute or situation** to the attention of the **Security Council or of the General Assembly, the Parliamentary Assembly or the Security Council, if such party any dispute to which it is a party if it** accepts in advance, for the purposes of the dispute **or situation**, the obligations of pacific settlement provided in **this the present** Charter.
3. The proceedings **and powers** of the General Assembly **and the Parliamentary Assembly** in respect of matters brought to its attention under this Article **are will be** subject to the provisions of Articles **11 and 12, 13 and 15.**

Article 36

1. The Security Council may, at any stage of a dispute **or situation** of the nature referred to in Article 33 ~~or of a situation of like nature~~, recommend **or require the parties to implement such appropriate** procedures or methods of adjustment **under such conditions as it deems appropriate.**
2. **In taking action under this Chapter VI and Chapter VII, the Security Council shall: should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties. 3. In making recommendations under this Article the Security**

~~Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.~~

- a. refer any legal question arising in relation to the dispute or situation to the International Court of Justice in accordance with the provisions of the Statute of the Court;
 - b. take into consideration any procedures for the settlement of the dispute or adjustment of the situation which have already been adopted by the parties;
 - c. comply with and implement any decision by the International Court of Justice in relation to the dispute or situation and take into consideration any relevant recommendation or advisory opinion issued by the International Court of Justice.
3. The Security Council may authorize peacekeeping operations with the consent of the parties and shall define their mandates, including objectives, scope, and duration. Peacekeeping operations under this provision shall be conducted impartially, without the use of force except in self-defense, defense of the mandate or to avert imminent loss of life, and in full respect for the sovereignty, territorial integrity, and political independence of Member States.¹⁶
4. The Security Council may deploy units of the United Nations Peace Force under paragraph 3 or a peacekeeping force composed of contingents contributed by Member States. Member States contributing personnel and resources to peacekeeping operations shall do so voluntarily and in accordance with agreements reached with the United Nations, including terms of reference, rules of engagement, and financial arrangements.

Article 37

1. Should the parties to a dispute **or situation** of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.
2. If the Security Council deems that the continuance of ~~any the~~ dispute **or situation** is in fact likely to endanger the maintenance of international peace and security **or result in large-scale loss of life**, it shall decide whether to take action under Article 36, or to **require recommend** such terms of settlement as it may consider appropriate, **or to prescribe such provisional measures under such conditions as it deems appropriate to be adopted by the parties to such dispute or situation**. The Security Council may from time to time modify any such terms of settlement or provisional measures, in compliance with any decisions, and taking into consideration any recommendations or advisory opinions, by the International Court of Justice.
3. The parties concerned shall comply with any terms of settlement or provisional measures prescribed under paragraph 2 of this Article and shall abstain from any action that might aggravate the dispute or situation.

Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute **or situation** so request, make recommendations **or issue binding instructions** to the parties with a view to a pacific settlement of the dispute **or adjustment of the situation; or, if so requested by the parties, the General Assembly or Council may decide the dispute or define the terms upon which the situation shall be adjusted, the decision in their case to be binding on all the parties concerned**.

CHAPTER VII

ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE,
AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, ~~or~~ act of aggression, ~~or imminent threat or act of genocide, war crime, or crime against humanity~~, and shall make recommendations, or decide what measures shall be taken in accordance with Articles 40, 41, and 42, to maintain or restore international peace and security.

Article 40

1. In order to prevent an aggravation of the situation, the Security Council may, before ~~making the recommendations or~~ deciding upon the measures provided for in Article 39, call upon ~~or require~~ the parties concerned to comply with such provisional measures as it deems ~~desirable or necessary or desirable~~. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. ~~The Security Council shall duly take account of failure to comply with such provisional measures.~~

2. ~~In the case of non-compliance with such provisional measures, the Security Council shall decide what measures shall be taken in accordance with Articles 41, 42 and 43 to enforce compliance therewith. Such measures may include the temporary stationing of units of the United Nations Peace Force in the territory of any party concerned.~~

Article 41

1. The Security Council may decide what measures not involving the use of armed force ~~shall are to~~ be employed to give effect to its decisions, ~~and it may call upon the Members of the United Nations to apply such measures~~. These may include complete or partial interruption of economic relations and of ~~rail, sea, air, postal, telegraphic, radio, and other~~ means of ~~transportation, trade, and~~ communication, ~~and~~ the severance of diplomatic relations, ~~and the suspension of voting and membership rights of any Member State responsible for a situation determined under Article 39 in any organ or subsidiary body of the United Nations.~~

2. ~~The Member States of the United Nations shall carry out such measures as directed by the Security Council. The Secretary-General shall invite any state which is not a Member of the United Nations to do likewise.~~

3. ~~The Security Council may refer to the Prosecutor of the International Criminal Court any situation in which one or more crimes within the jurisdiction of the Court appear to have been committed.~~

Article 42

1. Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it ~~may direct may take~~ such ~~military~~ action by ~~the United Nations Peace Force air, sea, or land forces~~ as may be necessary to maintain or restore international peace and security ~~or to prevent genocide, war crimes, or crimes against humanity~~. Such action may include demonstrations, blockade, and other operations by ~~military air, sea, or land~~ forces of Member ~~States~~ of the United Nations.

2. ~~When the Security Council has mandated military action by the United Nations Peace Force,~~

all Member States of the United Nations shall, within the limitations of and pursuant to the procedures governing its deployment, make available to the United Nations Peace Force such assistance and facilities, including rights of passage, as the Council may request.

Article 43

1. ~~There shall be established a United Nations Peace Force consisting of All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security~~ a Standing Force, comprising full-time volunteer personnel, as well as a Reserve Force, comprising reserve volunteer personnel, the number and composition of which is to be determined by the General Assembly and the Parliamentary Assembly in a Protocol on the United Nations Peace Force.

2. In directing military action by the United Nations Peace Force under Article 42, the Security Council shall:

a. In most circumstances, make use of the Standing Force only;

b. In exceptional circumstances, when it determines that the existing strength of the Standing Force is insufficient to maintain or restore international peace and security or to prevent genocide, war crimes, or crimes against humanity, declare the existence of a grave emergency and call to active duty as many members of the Reserve Force as it may deem necessary; and

c. When it determines the combined strength of the Standing Force and the members of the Reserve Force called to active duty pursuant to paragraph 2(b) above to be insufficient to maintain or restore international peace and security or to prevent genocide, war crimes, or crimes against humanity, declare the existence of an extreme emergency and direct that, for the period of such extreme emergency only, the strength of the Peace Force shall be increased beyond the maximum limits provided for the Protocol on a United Nations Peace Force to such number as it deems necessary and that the Member States of the United Nations shall cooperate in recruiting additional volunteer personnel and military capacity, provided that such increase shall be made pursuant to the procedures and subject to the limitations contained in the Protocol.

d. Nothing in this Article shall preclude the Security Council acting under Article 53 from utilizing regional arrangements or agencies to supplement or substitute for the course of action prescribed in Article 43(2) above.

~~2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.~~

~~3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.~~

Article 44

The General Assembly and the Parliamentary Assembly shall enact in advance such general regulations as they deem necessary to enable the Member States of the United Nations to comply promptly and effectively with any call or direction by the Security Council under Articles 41, 42 and 43.

~~When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.~~

Article 45

The Member States of the United Nations shall adopt such domestic laws and regulations as may be necessary to ensure prompt and effective compliance with such general regulations as are enacted by the General Assembly and the Parliamentary Assembly under Article 44 and the Protocol on a United Nations Peace Force.

~~In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.~~

Article 46

1. The Secretariat shall advise and assist the Security Council with:

- a. ~~Plans Planning for and coordinating military action by the United Nations Peace Force to maintain or restore international peace and security or to prevent genocide, war crimes, or crimes against humanity, pursuant to Article 42, the application of armed force shall be made by Security Council with the assistance of the Military Staff Committee;~~ and
- b. All questions relating to the military requirements of the United Nations for the maintenance of international peace and security, the prevention of genocide, war crimes, or crimes against humanity, the employment and command of forces placed at its disposal, the regulation of armaments, and disarmament.

2. The General Assembly, the Parliamentary Assembly and the Security Council shall ensure that any action, decision, measure, enactment taken, or plan made, under Articles 40, 41, 42, 43, 44, and 46 complies with international law, including international human rights law, international refugee law, and international humanitarian law.

Article 47

~~1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.~~

~~2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.~~

~~3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.~~

~~4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.~~

Article 48

1. ~~To the extent that Member States of the United Nations are directed by the Security Council to take action~~ ~~The action required to carry out the decisions of the Security Council~~ for the maintenance of international peace and security ~~or for the prevention of genocide, war crimes, or crimes against humanity, such action~~ shall be taken by all the Member States ~~of the United Nations~~ or by some of them, as the Security Council may determine.

2. ~~Any such required action~~ ~~Such decisions~~ shall be ~~taken carried out~~ by the ~~Members States~~ of the United Nations directly and through ~~their action in~~ the appropriate international agencies of which they are members.

Article 49

The Member States of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member State of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in ~~this present~~ Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against ~~any state a Member of the United Nations~~, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by ~~any state Members~~ in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under ~~this the present~~ Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security ~~and to prevent genocide, war crimes, or crimes against humanity~~.

Comment on the Protocol on a United Nations Peace Force

The full Protocol remains to be drafted but the text below suggests elements of its future content. Beyond the amendments to the Charter needed to provide the legal basis for UN military actions to secure the peace, as noted above, it will also be necessary to lay out the various practical issues that would underpin the establishment and the operations of the United Nations Peace Force. The list below includes various provisions for the operation of this force, as a starting point, for further elaboration. This list is drawn from the work done by Clark and Sohn, who gave a great deal of thought to such operational concerns.

Objectives

1. In the recruitment and organization of the United Nations Peace Force, the objective will

be to create and maintain a highly trained professional force such that it is fully capable of safeguarding international peace.

2. The United Nations Peace Force will never be employed to achieve objectives inconsistent with the Purposes and Principles of the (revised) Charter and fundamental human rights.

Recruitment and Staffing (Personnel)

3. The members of the United Nations Peace Force and its civilian employees, together with their dependents, will be entitled to all the privileges and immunities provided to UN personnel.

4. The Secretariat is charged with advising the Security Council on all matters of international peace and security, international crimes, the use of the UN Peace Force, the regulation of armaments, and disarmament.

5. United Nations Peace Force members will be recruited wholly by voluntary enlistment. The General Assembly and/or the Parliamentary Assembly will have no power to enact a compulsory draft law; and no nation may apply any sort of compulsion to require enlistment in the Peace Force, except under the exceptional circumstances described in Article 43 of the Second Charter and subject to the limitations in paragraph 33 below.

6. United Nations Peace Force members will be selected through international recruitment under the supervision of the Secretariat based on their competence, integrity and devotion to the purposes of the United Nations and will receive training on the high purpose of their missions and the ethical principles that should guide all their actions. With the exception of commanders at all levels, they must not be more than 35 years old at the time of initial enlistment.

7. The members will declare loyalty to the United Nations in a form prescribed by the General Assembly. They will be restricted from seeking or receiving instructions from any government or authority external to the United Nations. They will refrain from any conduct which might reflect poorly on their position as members of the Peace Force.

8. The term of service of members of the standing component of the Peace Force will be between four and eight years, determined by the General Assembly and the Parliamentary Assembly.

9. The term of service of reserve members will be between six and ten years, also determined by the General Assembly and the Parliamentary Assembly. They will receive basic training for between four and eight months during the first three years of their term, and again during the remainder of their term, as determined by the Secretariat.

10. The Force's officers will be selected, trained, promoted and retired with a view to the creation of a peerless officer corps. Opportunities for promotion to officer positions will be provided to highly qualified men and women from the rank and file.

11. The members of both components of the Peace Force will be recruited on as wide a geographical basis as possible, subject, except in extreme emergency (see paragraph 34), to the following limitations:

- a. The number of nationals of any nation serving at any one time in either component of the Peace Force cannot exceed five percent of the total enlistment of that component.
- b. The number of nationals of any nation serving at any one time in any of the three main branches of either component (land, sea and air) cannot exceed five percent of the total enlistment of that branch.
- c. The number of nationals of any nation serving at any one time in the officer corps of one of the three main branches of either component cannot exceed five percent of the officer corps for that branch.

12. Units of the Peace Force will be composed to the greatest possible extent of different nationalities. No unit exceeding one hundred in number can be composed of nationals of a single nation.

13. The Peace Force will employ civilian personnel for the services and functions that do not need to be performed by military personnel; civilian personnel will not be deemed members of the Peace Force.

Administration

14. The General Assembly and Parliamentary Assembly in the Protocol will adopt the basic modalities necessary to provide for the organization, administration, recruitment, training, equipment and deployment of the Peace Force's standing and reserve components

15. The General Assembly and Parliamentary Assembly will have authority to amend and enact the Protocol referenced in paragraph 14, and those deemed necessary for the organization, administration, recruitment, discipline, training, equipment and deployment of the Peace Force.

16. If the General Assembly and Parliamentary Assembly determine that the economic measures provided for in Article 41 of the Second Charter are inadequate or have proven to be inadequate to maintain or restore international peace or to ensure compliance with the Second Charter, and that the Peace Force has not reached sufficient strength to deal with the situation, the Assembly will direct such action by part or all of the national forces which have been designated in paragraph 33 as it deems necessary. This action will be taken within the limitations established in paragraphs 25–30.

17. The General Assembly will have authority to enact the laws and regulations deemed necessary for the strategic direction, command, organization, administration and deployment of the national forces designated in paragraph 32 when action by any such national forces has been directed pursuant to paragraph 16.

18. The Secretariat, with the advice and assistance of the Office of Military Affairs and other similar functions, will have overall control of the Peace Force. The Security Council may issue instructions to the Secretariat as it deems fit.

19. The expenses of the Peace Force and of the United Nations Military Supply and Research Agency (see paragraph 22) will be borne by the United Nations. After receiving a report from the Secretariat and the recommendations of the Security Council, the General Assembly will determine the pay and allowances of the personnel of the Peace Force. The annual budget of the Peace Force will be prepared by the Secretariat, subject to the approval of the Security Council. The annual budget of the Military Supply and Research Agency will be prepared by the Agency's management, subject to the approval of the Security Council. Both budgets must be submitted to the General Assembly for consideration and approval.

Logistics

20. The standing component of the United Nations Peace Force will be stationed at military bases of the United Nations, which will be spread around the world to enable prompt action in cases approved by the General Assembly, or the Security Council, if authorized by the Assembly. In order to ensure adequate regional distribution, the world will be divided by the Assembly into between 11 and 20 regions. Between five and ten percent of the total strength of the standing component will be stationed at bases located in each of these regions, except when the Peace Force is taking action to maintain or restore international peace or to ensure compliance with the laws and regulations of the Second Charter.

21. The military bases of the United Nations will be obtained from, or with the assistance of, the nations in the relevant region. The bases will be acquired on long-term leases, by agreement and, as needed, by compensation.

Weaponry

22. The United Nations Peace Force will not possess or use any nuclear, biological, chemical or other weapons of mass destruction. The Peace Force will acquire its initial arms and equipment (including aircraft and naval vessels) through transfers from national military forces during the disarmament period specified in the Second Charter. Any further arms and equipment will be produced by the United Nations in its own production facilities. These facilities will be administered by the United Nations Military Supply and Research Agency and will be established by General Assembly legislation. The facilities will be initially equipped with machines, appliances and tools discarded during the disarmament period. Further needs will be manufactured by the United Nations in its own plants – also administered by the Military Supply and Research Agency. The requirement that the production of arms, equipment, and machines be confined to the production facilities of the United Nations will not apply if the General Assembly declares an extreme emergency (see paragraph 34).

23. The United Nations Military Supply and Research Agency will, to the extent authorized and provided for by the General Assembly, engage in research related to the development of new military weapons, the improvement of existing weapons, and methods of defence against the possible illegal use of weapons of mass destruction. Research and innovation will always be guided by the principle of maintaining international peace.

24. The stocks of arms and equipment will be located on the United Nations' military bases. The facilities of the United Nations Military Supply and Research Agency will be located either on these bases or in areas leased by the United Nations for the purpose. The stocks and facilities will be geographically distributed to minimize the risk that any nation or group of nations might gain a military advantage by seizing the stocks or facilities situated in a particular region; between five and ten percent of the total amount of the stocks and of the total productive capacity of the facilities will be concentrated in each of the regions referenced in paragraph 20.

Action Protocol

25. Plans for possible action by the Peace Force to maintain or restore international peace or to ensure compliance with the Second Charter will be made by the Security Council with the assistance of the Secretariat.

26. When action by the Peace Force has been directed by the General Assembly, or the Security Council, the Secretariat will be responsible for the final preparation and execution of such plans, subject to the general control of the Security Council.

27. No action by the Peace Force will be permitted without prior authorization by the General Assembly, or the Security Council. This provision does not prevent the Peace Force from taking necessary measures of self-defense in case of an armed attack on its bases, ships, or airplanes, or on its personnel stationed outside its bases.

28. Any action by the Peace Force will be limited to operations strictly necessary to maintain or restore international peace or to ensure compliance with the (revised) Charter. The Peace Force will always avoid any unnecessary destruction of life or property. If in the case of a large-scale violation, which cannot be dealt with by more limited means, it is determined absolutely essential to destroy or damage an inhabited area, the inhabitants will be given sufficient warning so that they may evacuate in time. Whenever possible, and in particular when action is being taken to prevent rather than suppress a breach of the peace or a violation of the Charter, any use of force will be preceded by naval or air demonstrations, accompanied by a warning that further measures will be taken if the breach or violation does not cease. When a violation consists of the operation of prohibited or unlicensed installations, establishments, or facilities, the action of the Peace

Force will be confined to occupation, unless the destruction of such installations, establishments, or facilities is absolutely essential to prevent a continuation of the illegal operation.

29. When taking action, the Peace Force will be entitled to pass freely through the territory of any nation and to obtain from any nation assistance with respect to temporary bases, supplies and transport as is needed. The General Assembly will enact laws regulating the extent of such assistance and the payment of fair compensation.

30. Upon the termination of any action by the Peace Force, it will be withdrawn as soon as possible to its bases.

31. The United Nations will have exclusive criminal and disciplinary jurisdiction with respect to the members of the Peace Force, its civilian employees, and their dependents in any area which the United Nations has leased for the use of the Peace Force. The General Assembly will enact laws specifying the penalties for offenses and providing for the apprehension, trial, and punishment of the accused. If the accused is found outside the area where the offense was committed, the authorities of the nation in which the person is found will assist in their apprehension and return to the area.

Member Obligations

32. During the transition period towards the establishment of the Peace Force and in coordination with the process of disarmament, each member Nation will make available to the United Nations [one tenth] of its military forces. During this period, [one fourth] of the combined forces will be maintained in a state of immediate readiness for military action under the direction of the United Nations.

33. If the General Assembly declares the existence of a grave emergency, it will call all or part of the United Nations Peace Force Reserve to active duty according to the following limitations: (i) if the call to active duty is for less than all of the Peace Force Reserve, members of the Reserve will be called in proportion to the number of nationals of the respective nations enrolled in the Reserve; (ii) the period of active duty required under any call must not exceed the period of the emergency, and no member of the Reserve will be obliged to serve after the expiration of the term of service for which they originally enrolled (see paragraph 8).

34. If the General Assembly has declared the existence of a grave emergency and if at that time the authorized strength of the standing component of the Peace Force is below its constitutional limit or the authorized strength of the Peace Force Reserve is below its constitutional limit, the Assembly may increase the authorized strength of the standing force or of the Reserve or of both to new limits. The Assembly may authorize these increases whether or not it has called to active-duty part or all of the Reserve. The Assembly may call upon the member Nations to assist in the recruitment of either or both components.

35. If the General Assembly has declared the existence of an extreme emergency and has directed an increase of the strength of the Peace Force beyond the maximum combined strength of both components (see paragraph 34), the Assembly may direct the member Nations to cooperate in obtaining the needed additional personnel.

Comments on Chapters VI and VII

In the original Charter, primary responsibility for the maintenance of international peace and security was vested in the Security Council (Art 24), set out in more detail in Chapters VI and VII.

Chapter VI concerned peaceful methods of settlement of disputes, while Chapter VII provided for means of military action with respect to threats to the peace, breaches of the peace, and acts of aggression. While clearly envisaged as central to the Charter's scheme for collective security, many of the provisions of Chapter VII were never put into effect, due to the stalemate brought about by the veto powers of permanent members of the Security Council on both sides of the Cold War. Moreover, the current wording of these Chapters was clearly intended to address conflicts between states, and is ill-suited for addressing intra-state conflicts, which can (and do) also result in large-scale losses of life. On the other hand, the relatively small and unrepresentative membership of the Security Council has long posed problems of legitimacy for military actions authorized under Chapter VII. In practice, these limitations led to the evolution of United Nations peacekeeping – sometimes described as deriving its authority from “Chapter VI½” – to address both inter- and intra-state conflicts, with military and police personnel provided by member states on a voluntary basis.

The proposed amendments to Chapters VI and VII make several changes intended to bolster the UN's capacities to maintain international peace and security, including through non-consensual collective enforcement means, while at the same time strengthening the democratic and legal legitimacy of those actions.

The proposed amendments begin by widening the language of Chapter VI to encompass situations which “might lead to international friction, give rise to a dispute... or result in large-scale loss of life”, bringing such situations within the range of scope of peaceful methods of settlement that are currently applicable to “disputes”. In these provisions, more detailed procedures regarding the sequencing and timing of dispute resolutions have been deliberately avoided. Here, the intention is to provide flexibility to the parties to adopt those procedures which they consider most appropriate in the circumstances, while also empowering the Security Council to recommend or require any such procedures as they deem appropriate at any stage.

The proposed amendments to Article 36 make Security Council actions under Chapters VI and VII subject to the international rule of law, including decisions, recommendations and advisory opinions of the International Court of Justice. This will undoubtedly be controversial and raise a whole host of other questions about how to handle the inevitable greater politicization of ICJ appointments, procedures, etc. However, the Security Council's lack of accountability is already a major issue and source of doubts regarding its legitimacy, and these will become even more pressing with the proposed amendments expanding its powers under Chapters VI and VII.

The proposed amendments to Article 36 also empower the Security Council to establish peacekeeping operations in accordance with the established principles of consent of the parties, impartiality, and non-use of force except in self-defense, defense of the mandate, or to avert imminent loss of life. Paragraph 4 notes that such operations may be established either through the voluntary contributions of forces by member states or with the deployment of the United Nations Peace Force, established in Chapter VII.

The proposed amendments to Chapter VII enable the Security Council and the UN Peace Force to take action in response to threats or acts of genocide, war crimes, and crimes against humanity, such as in situations of mass atrocity subject to jurisdiction by the International Criminal Court. This is likely to be a point of controversy, given that it widens the UN's powers of intervention into the domestic jurisdiction of states. However, it seems worthwhile to include this language as a starting point for discussions about how to make the UN more effective in responding to mass atrocities, including outside the context of international conflicts, and assuming the adoption of other amendments to the Charter to introduce appropriate procedural and legal safeguards.

The proposed amendments to Article 41 remove the wording “rail, sea, air, postal, telegraphic, radio, and other” (which excludes space travel or internet communications) and replace it with a general reference to “means of transportation, trade, and communication.”

The proposed amendment to Article 46 inserts a paragraph requiring the General Assembly, the Parliamentary Assembly and the Security Council to ensure that any actions they authorize comply with international law and have due regard for the need to protect civilian populations. Here again, the intention is to establish a level of legal responsibility and accountability that will in turn lend greater legitimacy to these actions over time.

The proposed amendments to Article 42 remove the wording “air, sea, or land forces” (which excludes space forces or cyber actions) and instead rely on the general reference to “military action”.

The proposed amendments to Articles 43–46 provide for a United Nations Peace Force, comprised of a Standing Force and a Reserve Force, and indicate the circumstances in which each may be called upon. The proposed new Article 44 empowers the General Assembly and the Parliamentary Assembly to enact general regulations relevant to Articles 41–43; and Article 45 obliges member states to adopt domestic laws and regulations to ensure prompt compliance with such regulations. Questions may arise whether these provisions are overly detailed, especially given the unlikelihood that a United Nations Peace Force would be politically feasible at the present time. However, it is considered that some level of detail is helpful to indicate the general arrangements that would be necessary if and when such a Peace Force does become feasible.

The proposed amendments to Article 46 require actions under articles 40–42, 44 and 46 to comply with international law.

CHAPTER VIII

REGIONAL ARRANGEMENTS

Article 52

1. Nothing in ~~this Second the present~~ Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.
2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.
3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.
4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, ~~with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.~~

~~2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.~~

Article 54

The ~~General Assembly, the Parliamentary Assembly, and the~~ Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

Comments on Chapter VIII

References to the term 'enemy states' have been removed from Article 53, a clause included in the Charter in 1945, but it has been obsolete for a long time. Germany and Japan became members of the United Nations in 1955 and have not only developed since as peace-loving states, but have also contributed significantly to international peace and security and the other purposes of the United Nations. Japan and Germany are the third and fourth largest contributors to the UN's regular budget. Other such anachronistic references (e.g., Article 107 in Chapter XVII) are also being deleted.

CHAPTER IX

INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION FOR SUSTAINABLE DEVELOPMENT, HUMAN RIGHTS AND THE PLANETARY ENVIRONMENT

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote **co-operation**:

- a. **to promote** higher standards of living, full employment, **gender equality** and conditions of economic and social progress and **sustainable** development, **leaving no one behind**;
- b. **to solve solutions of** international economic, social, **cultural, educational**, health, **scientific**, and related problems; **and international cultural and educational cooperation; and**
- c. **to guarantee the** universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion, **or any other category, and the elimination of all forms of sexual and gender-based violence, including domestic violence, sexual harassment, and human trafficking**;
- d. **to protect, manage, and ensure the sustainable use of the planetary environment and Earth system in harmony with nature.**

Article 56

All Members ~~shall pledge themselves to~~ take joint and separate action in co-operation with the **United Nations Organization based on the principle of common but differentiated responsibilities** for the achievement of the purposes set forth in Article 55, **and to submit such reports as may be required by the Economic and Social Council under Article 64.**

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in **environmental, economic, social, cultural, educational, health, scientific, human rights, and related fields, shall be integrated and consolidated within brought into relationship with** the United Nations in accordance with the provisions of Article 63.
2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall **coordinate and promote coherence and integration make recommendations for the co-ordination** of the policies and activities of the specialized agencies.

Article 59

The **United Nations Organization** shall, where appropriate, **establish such new specialized agencies as may be required for the accomplishment of the purposes set forth in Article 55, taking into consideration the coherence and integration of their policies and activities.**

The Constitutions/Articles of Agreement of such agencies shall be prepared by the Member States of the United Nations in consultation with the Economic and Social Council and shall be approved by the General Assembly and the Parliamentary Assembly. They shall come into force upon the deposit of ratifications by a majority of Members of the United Nations, but shall bind only those states which have then ratified them or thereafter accede to them. ~~initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.~~

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly **and the Parliamentary Assembly** and, under the authority of the General Assembly, the Economic and Social Council, **the Human Rights Council and the Earth System Council**, which shall have for this purpose the powers set forth in Chapters X, **XI and XII**.

Comments on Chapter IX

Relevance of Chapter IX

Chapter IX is one of the most successful innovations of the UN Charter in comparison to the Covenant of the League of Nations. Instead of laying the foundations of international peace and security solely on the prohibition of the use of force, Chapter IX of the UN Charter set up the machinery for the promotion of economic and social co-operation in connection with the maintenance of international peace and security. For the drafters of the UN Charter, social and economic stability was necessary for peace, and peace was essential to social and economic prosperity. Following the same rationale, the proposed amendments to Chapter IX aim at expanding this dialectic relationship to the other pillars of the UN work, as laid out in the Preamble and Chapter I of this new Charter. This goal justifies the change in the title of Chapter IX to International Social and Economic Co-operation for Sustainable Development, Human Rights and the Planetary Environment.

Expanded Provisions for International Co-operation

In the San Francisco Conference, delegates considered that the first Article of Chapter IX needed to establish the mechanisms for implementing the goals set in the Preamble and Chapter I of the UN Charter. Therefore, the original provisions of Article 55 invested the UN with two competencies: the responsibility of promoting social and economic co-operation and respecting and observing human rights; and the power of implementation through direct action and the creation of specialized agencies. In the Second Charter, Article 55 has been amended to expand such provisions and clarify that international co-operation is a means to promote the three afore-mentioned pillars of the UN work.

In the amended version of Article 55, Point (a) focuses on promoting not only higher standards of living, full employment, and conditions of economic and social progress, but also includes gender equality and sustainable development as goals of international co-operation. Point (b) specifies that the UN shall find solutions to different international problems. Point (c) strengthens the human rights provisions in the UN Charter by adding “any other category” to the types of discrimination, making the respect and observance of all human rights genuinely universal and reinforcing the legal obligations of States to protect such rights. Moreover, it includes the elimination of all forms of sexual and gender-based violence, since there were no Charter provisions regarding this issue. Point (d) covers the protection, management, and sustainable use of the planetary environment and Earth system in harmony with nature.

Ensuring Effective Implementation

The following Articles of Chapter IX lay out the instruments at the UN's disposal to implement the provisions of Article 55. The commitment of Member States to take joint and separate action in co-operation with the UN is presented in Article 56. This article is more than a repetition of Article 2(2), which states that all Members shall fulfill the provisions of the Charter in good faith. It is equivalent to Article 25 in Chapter V, in terms of establishing an obligation to all Member States to pursue economic and social objectives. However, Article 56 affirms that "all Members shall pledge themselves", with the word "pledge" reducing the scope of obligation compared to Article 25. To correct that and clearly state that Articles 55 and 56 constitute a legal obligation of Member States on the issues of the planetary environment, sustainable development, and human rights, the proposed amendment in Article 56 replaces the term "pledge" with "shall". Besides, the amended version includes the principle of common but differentiated responsibilities¹⁷ as the foundation of such obligation to ensure effective implementation through universal participation in all three areas of co-operation: planetary environment, sustainable development, and human rights.

Solving the Problem of Decentralization and Lack of Coordination in the UN System

Article 57 envisions the relationship with specialized agencies to implement Article 55. There is an inconsistency in the language of Article 57(1), which presupposes that specialized agencies already exist; and Article 57(2), which assumes that an international organization can only become a specialized agency if there is an official relationship with the UN. However, in the UN practice, this inconsistency has not affected the legal status of specialized agencies, therefore, the paragraph remained unchanged in this aspect. The only amendment in Article 57(1) included other fields in which specialized agencies should work: environmental, scientific, and human rights. The specification of fields is important to highlight that military organizations are not considered specialized agencies in the scope of Article 57.

In the history of UN practice, one of the main consequences of Article 57 was the consolidation of a decentralized system based on a functionalist approach. On the one hand, it was a matter of practicality, to organize the relationship between the UN and the existing international organizations that were independent, with their own treaties, structures, and areas of activities¹⁸. On the other hand, there was a lack of explicit directions about coordination in the UN Charter. Article 57 does not present a clear division of labour between the UN and specialized agencies since both are responsible for implementing Article 55. Such a grey area is reinforced by Article 58, which does not specify how the UN should coordinate specialized agencies in operational terms, except for making recommendations.

Overlapping activities between the UN and specialized agencies, competition for agendas and financial resources, and lack of communication and co-operation are well-reported as the main issues jeopardizing the implementation of the UN agendas, especially the global goals for development. In the Second Charter, Article 57(2), Article 58, Article 59, and Article 63¹⁹ were amended with stronger language to better specify the role of the UN in coordinating and promoting coherence, integration, and consolidation of the policies and activities of the specialized agencies. In addition, Article 59 was amended to specify a common practice in the UN: initiatives to create new specialized agencies begin in ECOSOC, and later, the General Assembly and the Parliamentary Assembly approve them.

Four Pillars, Four Councils Institutional Structure

Article 60 was amended not only to correct the overlapping functions between the General Assembly and ECOSOC²⁰, but mainly to lay out the new structure of UN bodies proposed in the Second Charter. Article 60 designates the General Assembly and the Parliamentary Assembly to

perform the functions described in Article 55; under its authority, the Economic and Social Council, the Human Rights Council and the Earth System Council shall have specific powers set forth in the Chapters. In sum, the revised Chapter IX amplifies the role of international co-operation and strengthens the implementation machinery of the UN, through the consolidation of the General Assembly and the Parliamentary Assembly as the main decision-making bodies of the organization, and the reorganization of the UN based on the “four pillars, four Councils” structure.

CHAPTER X

THE ECONOMIC AND SOCIAL COUNCIL

Composition

Article 61

1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly
2. ~~Subject to the provisions of paragraph 3, e~~Eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.
3. ~~At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.~~
4. Each member of the Economic and Social Council shall have one representative.

Functions and Powers

Article 62

1. The Economic and Social Council ~~may will be a deliberative and implementing body that fosters policy debate and advocacy make or initiate studies and reports~~ with respect to international economic, social, cultural, educational, scientific, health, **gender equality, sustainable development in harmony with nature** and related matters, ~~leaving no one behind. to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.~~
2. ~~It may make recommendations with respect to the matters within its competence to the General Assembly and the Parliamentary Assembly, the Members of the United Nations, and to the specialized agencies concerned.~~
3. ~~It may monitor and review the implementation of decisions on matters within its competence, and it may report on such assessments to the General Assembly, the Parliamentary Assembly, the Members of the United Nations, and to the specialized agencies concerned.~~
2. ~~It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.~~
43. It may prepare draft conventions for submission to the General Assembly **and the Parliamentary Assembly**, with respect to matters falling within its competence.
54. It may call **international conferences on matters falling within its competence, and it may monitor, follow-up on, report on, and review and evaluate such conferences, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.**
6. **It may consolidate and centralize the operational activities of the UN development system, providing policy review and guidance.**
7. **It may provide analytical leadership by fostering knowledge-sharing and mutual learning.**

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be **integrated and consolidated within the United Nations brought into relationship with the United Nations**. Such agreements shall be subject to approval by the General Assembly **and the Parliamentary Assembly**.

2. It may co-ordinate **and promote coherence and integration of** the activities of the specialized agencies, **from the United Nations level to the country level**, through consultation with and recommendations to such agencies and through recommendations to the General Assembly, **the Parliamentary Assembly** and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies **and provide them with adequate policy guidance on international development co-operation**. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly **and the Parliamentary Assembly**.

2. It may communicate its observations on these reports to the General Assembly **and the Parliamentary Assembly**.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly **and the Parliamentary Assembly**.

2. It may, with the approval of the General Assembly **and the Parliamentary Assembly**, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly **in consultation with the Parliamentary Assembly**.

Voting**Article 67**

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Procedure

Article 68

1. The Economic and Social Council shall set up commissions in economic and social fields **and for the promotion of human rights**, and such other commissions as may be required for the performance of its functions.
2. **The Economic and Social Council shall offer guidelines to subsidiary bodies to promote coherence and integration of their work.**

Article 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

Article 71

In conformance with the Protocol adopted by the General Assembly and the Parliamentary Assembly pursuant to Article 8 (2), ~~t~~The Economic and Social Council **shall may** make suitable arrangements for consultation with non-governmental organizations, **civil society and other stakeholders** which are concerned with matters within its competence. Such arrangements may **also** be made with international organizations. **and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.**

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings upon the request of a majority of its members.

Comments on Chapter X

The Economic and Social Council (ECOSOC) reform has been subject to debate since its early years due to the rapid and decentralized expansion of the United Nations (UN) development system and its family of subsidiary bodies and specialized agencies. Many reform proposals, especially after the adoption of global goals (the Millennium Development Goals in 2000 and the Sustainable Development Goals in 2015), have primarily addressed matters of political will in bringing more relevance to ECOSOC and in-house work to make its methods more efficient.

Nevertheless, many of the weaknesses of ECOSOC are drawn from contradictions, ambiguities, and lack of clarity in the text of the original UN Charter itself. There are three inconsistencies in the UN Charter regarding the functions of ECOSOC, its powers and composition which justify the need to amend specific Articles of the UN Charter: the overlapping functions and powers between the

ECOSOC and the United Nations General Assembly (UNGA); the unclear role of ECOSOC in coordinating the specialized agencies and subsidiary bodies; and the representativeness of ECOSOC composition, both in terms of Member States and other stakeholders.

The Overlapping Functions and Powers between the ECOSOC and the UNGA

When the US State Department introduced the first draft of the ECOSOC at the Dumbarton Oaks Conference in 1944, ECOSOC was envisioned as a subsidiary organ of the UNGA. However, in the 1945 San Francisco Conference, small and medium States defended the view that ECOSOC should be an autonomous body. As a result of the negotiation process, there are overlapping functions in the mandate of the ECOSOC and the UNGA. Articles 62.1 and 62.2 (Chapter X) state that the Council can make studies and recommendations to the UNGA on “international economic, social, cultural, educational, health, and related matters” and “human rights and fundamental freedoms”. Similarly, Article 13.1b (Chapter IV) states the same areas of work for the UNGA. Therefore, the original Charter is ambiguous regarding the specific role that ECOSOC should play in policy formulation vis-à-vis the UNGA, considering that both organs cover the same issues.

Due to overlapping functions between the ECOSOC and the UNGA, the original Charter is contradictory regarding the powers of both organs. Article 7 (Chapter III) places ECOSOC as an autonomous body, while Articles 60 (Chapter IX) and 66 (Chapter X) place ECOSOC under the authority of the UNGA. Due to these inconsistencies in the original UN Charter, there is no clear division of labour and decision-making between the ECOSOC and the UNGA, leading to duplication of work, especially between the UNGA Second and Third Committees and the ECOSOC.

In the Second Charter, we propose amendments to Articles 62 and 66 (Chapter X) to specify that the UNGA and the Parliamentary Assembly are the main policy-formulation bodies on economic and social issues, so ECOSOC is hierarchically subordinate to them. Nevertheless, amendments to Article 62 state that ECOSOC would lead action in its specific field as the main deliberative and implementing body, with such responsibilities as fostering policy debate and advocacy on issues related to economic, social, cultural, educational, health, and, as an innovation to the Charter, gender equality.

ECOSOC also has the power to make recommendations, monitor and review progress in those areas. It also is responsible for following-up, monitoring, evaluating major conferences; consolidating and centralizing the operational activities of the UN development system, providing policy review and guidance²¹; and providing analytical leadership by fostering knowledge-sharing and mutual learning²². Such amendments provide a clear division of labour and decision-making between UN organs, removing the current duplication of work between the GA Second and Third Committees and the ECOSOC. The former would focus on policy-formulation, and the latter would concentrate on deliberating on and implementing such policies.

Strengthening ECOSOC’s Coordination Role

Another crucial Charter reform is strengthening the role of the ECOSOC in coordinating the specialized agencies and subsidiary bodies in order to overcome the current decentralization and fragmentation of the UN development system. The original UN Charter provides a general governance framework based on functionalism and decentralization, which is embedded in its current bureaucratic culture. Articles 57 and 58 (Chapter IX) and Articles 63 and 64 (Chapter X) state that the ECOSOC is responsible for coordinating and monitoring the activities of the specialized agencies. Besides, Article 68 (Chapter X) states that ECOSOC can create subsidiary bodies.

The language of these Articles is general, without stating the exact scope of the ECOSOC coordination

role, leaving room for greater decentralization and fragmentation of the specialized agencies and subsidiary bodies. These entities, in turn, present great resistance to the subordination of their own agendas, work methods, and budgetary structures to the consolidation and centralization of the UN development system as a whole. Another issue is that these Articles do not specify the different levels of UN governance. Currently, most of the work of specialized agencies happens at the country level, and the role of the ECOSOC in coordination and guidance is virtually absent at this level, except for the general consideration of reports. There is a need, therefore, to highlight that coordination must extend from the UN level to the country level.

In the Second Charter, ECOSOC's new mandate would comprise powers to promote coherence and integration among specialized agencies and subsidiary bodies, from the UN level to the country level, including providing policy review and guidance. Articles 57, 58, and 63 were amended to replace "brought into relationship with the United Nations" (which suggests decentralization) with a stronger language to better specify the ECOSOC's role in coordinating and in promoting coherence, integration, and consolidation within the United Nations, from the UN level to the country level²³. Articles 64 and 68 were amended to improve the role of ECOSOC in providing adequate policy guidance to specialized agencies and subsidiary bodies besides obtaining reports²⁴.

Composition

The representativeness of ECOSOC composition is another issue addressed in the Second Charter. Article 61 (Chapter X) has been amended twice to enlarge the ECOSOC composition of Member States. Originally, it had 18 members, but the seats increased to 27 in 1965 and to the current 54 seats in 1973, to guarantee greater representation of developing countries. Despite these reforms, there has been a historical tension between functionalism and democratic pluralism in ECOSOC: The body has been considered too big to perform its functions efficiently and too small to represent all economic and social issues and interests, which seems to be the dilemma of all UN Councils.

Since the 1990s, three main proposals regarding amending Article 61 are on the table: To promote a universal membership so ECOSOC can have a large convening power and, with that, all the agenda of the UNGA Second and Third Committees would be transferred to ECOSOC; to reduce ECOSOC to 36 members, following the membership of the Executive Boards of UNDP/UNFPA, UNICEF, and the World Food Program, to seek some balance between universality and agility; and to replace ECOSOC with a small Economic Security Council, mimicking the composition of the UN Security Council in order to increase agility.

In the Second Charter, Article 61 remained unchanged, keeping the current composition of 54 Member States based on geographical representation (with 14 allocated to African States, 11 to Asian States, 6 to Eastern European States, 10 to Latin American and Caribbean States, and 13 to Western European and other States) since the second enlargement in 1973 was agreed as a balanced representation between Northern and Southern countries, keeping Northern countries with below 30% of the seats. This number is large enough to accommodate different regions and interests and small enough to allow interactive debate, compared to the UNGA.

Besides being composed of Member States, ECOSOC has a singular convening power since it is the only body in the original UN Charter responsible for the accreditation of NGOs as observers under Article 71 (Chapter X). For that, ECOSOC is considered the "portal of entry" or a "revolving door" for civil society engagement with the UN. Considering the substantial growth in civil society and business sector participation in major UN global conferences, this Article was amended to recognize and include the participation of multiple stakeholders in ECOSOC and the UN, inspired by the agreed language of the 2030 Agenda for Sustainable Development. Nevertheless, the Second Charter will include general provisions on accreditation of NGOs and other stakeholders in other UN bodies besides ECOSOC to prevent these actors from going through different accreditation processes for each one of the UN bodies.

The ECOSOC has been considered irrelevant for many decades, since it is at the heart of the weak governance of the United Nations development system. It is necessary to go beyond strengthening its working methods and rules of procedure and address the core of its failure, which goes back to the original UN Charter. The new ECOSOC proposed in the Second Charter will be empowered with the instruments for supervising and monitoring the implementation of the economic and social agendas; coordinating with specialized agencies and subsidiary bodies; and upgrading its role as a sounding board for NGOs, civil society and other stakeholders.

CHAPTER XI

THE HUMAN RIGHTS COUNCIL

Composition

Article 1

1. Subject to the provisions of paragraph 3, the Human Rights Council shall consist of forty-seven members elected by the General Assembly. The membership shall be based on equitable geographical distribution.
2. Members will be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election. Members will not be eligible for immediate re-election after two terms.
3. The membership in the Council shall be open to all Member States of the United Nations; when electing members of the Council, Member States shall take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto; the General Assembly, by a two-thirds majority of the members present and voting, may suspend the rights of membership in the Council of a member of the Council that commits gross and systematic violations of human rights;
4. Each member of the Human Rights Council shall have one representative.

Functions and Powers

Article 2

1. The Human Rights Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner.
2. The work of the Council shall be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and co-operation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development and the right to a clean, healthy and sustainable environment.
3. It shall address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon. It shall also promote the effective coordination and the mainstreaming of human rights within the United Nations system.
4. It shall promote human rights education and learning as well as advisory services, technical assistance and capacity-building, to be provided in consultation with and with the consent of Member States concerned.
5. It shall serve as a forum for dialogue on thematic issues concerning all human rights.
6. It shall make recommendations to the General Assembly for the further development of international law in the field of human rights.
7. It shall report to the General Assembly and the Parliamentary Assembly on a regular basis.
8. It shall undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States and contribute, through dialogue and co-operation, towards the prevention of human rights violations and respond promptly to human rights emergencies.

9. It shall work in close co-operation in the field of human rights with Governments, regional organizations, national human rights institutions and civil society.

10. The Human Rights Council shall furnish information, about persistent human rights violations, including early warning information, to the Security Council and the Economic and Social Council, with a view to soliciting early actions to prevent situations from developing into conflicts and shall assist the Security Council and the Economic and Social Council upon their request.

Voting

Article 3

1. Each member of the Human Rights Council shall have one vote.
2. Decisions of the Human Rights Council shall be made by a majority of the members present and voting.

Procedure

Article 4

The Human Rights Council shall appoint special rapporteurs and independent experts and set up commissions of inquiry to address specific human rights situations as may be required for the performance of its functions.

Article 5

Non-members of the Human Rights Council can participate, without vote, in all deliberations at its open sessions.

Article 6

The Human Rights Council may make arrangements for representatives of the United Nations agencies and programmes to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the United Nations Agencies and Programmes.

Article 7

In conformance with the Protocol adopted by the General Assembly and the Parliamentary Assembly pursuant to Article 8 (2), the Human Rights Council shall make suitable arrangements for consultation with non-governmental organizations, civil society and other stakeholders which are concerned with matters within its competence. Such arrangements may also be made with international organizations.

Article 8

1. The Human Rights Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Human Rights Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings at the request of a majority of its members.

Comments on Chapter XI

Article 1 establishes the principle of equitable geographical distribution in the membership of the Council among regional groups. One possible such arrangement might be as follows: Group of African States (13); Group of Asian States (13); Group of Eastern European States (6); Group of Latin American and Caribbean States (8); and Group of Western European and other States (7).

The UN's Human Rights Council (HRC) was established in 2006 by the UN General Assembly and is responsible for strengthening the promotion and protection of human rights globally. Since then, the HRC has worked to promote and protect all human rights, civil, political, economic, social and cultural, including the right to development. However, its jurisdiction is not defined in the UN Charter.

The UN Charter adopted in San Francisco contained several provisions on human rights that were critically important. The Preamble reaffirms “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” In the Second Charter, we expanded the human rights provisions in the Preamble, by making human rights equal to all, by virtue of our common humanity, without any form of discrimination or distinction.

The bold vision of the subsequent 1948 Universal Declaration of Human Rights (UDHR), and the hope it generated of justice and dignity for every human being, is equally important but still far from being fulfilled. Human rights are regressing in many parts of the world. Increasing inequality and marginalization, along with political repression, leave millions unprotected. Persecution based on race, religion, political beliefs or sexual orientation is on the rise, and millions of refugees and displaced persons are often treated as villains rather than victims.

A strengthened Council would aim to eliminate the gap between the high aspirations embedded in multiple UN documents and initiatives and the living reality experienced by many whose rights are not respected. Human rights must also be given a status as a principal organ of the United Nations. Among other benefits, formal links between the HRC and other UN organs would mean that early warnings of impending conflicts and genocide, for example, would not go unheeded.

While the HRC has done substantial and critical work calling attention to human rights violations globally, it is often unable to protect them. States do not always comply with decisions regarding individual complaints or do not fulfill reporting duties. The HRC also suffers from inadequate resources, backlogs of reports, a reliance on unpaid experts, and inadequate checks and balances on the independence of oversight bodies. It also faces the lack of implementation of human rights obligations and recommendations from its own mechanisms and from human rights treaty bodies.

It is difficult to envision a significantly strengthened UN and global governance system without also establishing a much-strengthened international human rights architecture. It is proposed that much of the current Council's structure and tasks be retained as is, e.g., a body composed of 47 members elected to three-year terms, while also addressing liabilities such as improving implementation of treaty obligations and recommendations, including those of the Universal Periodical Review (UPR), monitoring and report preparation, seeking binding commitments for the findings of treaty bodies, and strengthening the role of civil society.

The esteemed economist Amartya Sen notes that because we do not have an organization with the responsibility to deliver to people the noble principles of the UDHR, human rights as currently practiced are merely “heart-warming sentiments.” Exerting continued pressure, working to secure adequate funding and advocating systematically for more rational, technically sound, impartial international implementation mechanisms within the human rights architecture is an urgent task and one that can be accomplished with a higher profile Human Rights Council.

CHAPTER XI
DECLARATION REGARDING NON-SELF GOVERNING TERRITORIES

Article 73

~~Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories; and, to this end:~~

- ~~a) to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;~~
- ~~b) to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;~~
- ~~c) to further international peace and security;~~
- ~~d) to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and~~
- ~~e) to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.~~

Article 74

~~Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.~~

CHAPTER XII INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- a) to further international peace and security;
- b) to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d) to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

- a) territories now held under mandate;
- b) territories which may be detached from enemy states as a result of the Second World War; and
- c) territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including

~~any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.~~

Article 80

~~1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.~~

~~2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.~~

Article 81

~~The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.~~

Article 82

~~There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.~~

Article 83

~~1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment shall be exercised by the Security Council.~~

~~2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.~~

~~3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.~~

Article 84

~~It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.~~

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly shall assist the General Assembly in carrying out these functions.

**CHAPTER XIII
THE TRUSTEESHIP COUNCIL**

Composition**Article 86**

1. ~~The Trusteeship Council shall consist of the following Members of the United Nations:—~~
 - a) ~~those Members administering trust territories;—~~
 - b) ~~such of those Members mentioned by name in Article 23 as are not administering trust territories; and—~~
 - c) ~~as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.~~
2. ~~Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.~~

Functions and Powers:**Article 87**

~~The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:~~

- a) ~~consider reports submitted by the administering authority;~~
- b) ~~accept petitions and examine them in consultation with the administering authority;~~
- c) ~~provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and~~
- d) ~~take these and other actions in conformity with the terms of the trusteeship agreements.~~

Article 88

~~The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.~~

Voting**Article 89**

1. ~~Each member of the Trusteeship Council shall have one vote.~~
2. ~~Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.~~

Procedure**Article 90**

~~1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.~~

~~2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.~~

Article 91

~~The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.~~

Comments on the Elimination of Chapters XI, XII, and XIII— The Trusteeship System and Council

Chapters XI, XII, and XIII of the original Charter concerning the UN Trusteeship Council are proposed to be eliminated from the new draft. Chapter XI mainly references the broad principles and values that should underpin the administration of “Non-Self-Governing Territories.” Chapter XII primarily discusses the logistical and legal aspects of the Trusteeship system, administering states and trust territories. Most of Chapter XIII explains the basic administrative operations of the Trusteeship Council. Although this content served a useful purpose around the time of the first Charter’s inception, it is no longer needed in an updated Charter.

In the original Charter, the Trusteeship system applied to a narrow set of territories: those “held under mandates established by the League of Nations,” “enemy states” following World War II, and those voluntarily placed under the system by “States responsible for their administration.” The outdated language used to classify trust territories makes clear that the Trusteeship Council was established to respond to the specific geopolitical landscape of a specific period. The Trusteeship system was conceived as a particular response to the unique post-World War II environment and tailored to the decolonization process of that era. This form of decolonization is effectively at an end, reflected in the number of sovereign UN member states rising from 51 in 1945 to 193 today.

The Trusteeship system fulfilled its mandate in 1994 when the last of the 11 trust territories, the trust territory of the Pacific Islands (Palau), achieved independence and became a member of the UN. The Security Council then terminated Palau’s UN Trusteeship Agreement. With each of the trust territories either having become independent states or voluntarily joining neighboring independent countries²⁵, leaving none on the Trusteeship Council’s agenda, the committee suspended operations on 1 November 1994. Efforts to disband the Trusteeship system at the time were held up primarily by fears that revising the Charter could lead to larger changes to the UN system, particularly to the Security Council, rather than the belief that the Trusteeship Council could later be a useful body.²⁶

While it is clear that no other states apply under the current, obsolete categories for trust territories, some have raised the prospect of reviving the Trusteeship system to address the continuing issue of state formation and Non-Self-Governing Territories in modern times. However, the situations in the suggested new trust territories, such as the Palestinian territories²⁷ and Kosovo, are radically different from the creation of sovereign nations emerging from European and other colonial powers. The latter process involved the complex divorcing of deeply entrenched colonial structures and the coordination of far more governments and stakeholder interests. It is telling that modern projects on Non-Self-Governing Territories have been handled not by the Trusteeship Council but by the

more contemporary Special Committee on Decolonization²⁸. Moreover, the decolonization process of the 20th century involved such a large proportion of the global population that its inclusion in the Charter was seen as necessary. The UN may certainly play a role in state-building in any of the current Non-Self-Governing Territories; however, this role need not be included as a foundational matter in the Second Charter.

Others have suggested refashioning the Trusteeship Council for entirely different purposes. The UN Secretary-General raised the proposition of using the forum “to enhance the governance of the global commons,” inviting “States to consider making the Council available as a multi-stakeholder body to tackle emerging challenges and, especially, to serve as a deliberative forum to act on behalf of succeeding generations.”²⁹ However, the Second Charter proposed here would broadly accomplish what the UNSG is calling for, that is, not through the defunct Trusteeship Council but rather through the strengthening of other existing Councils and the creation of an important new one, the Earth System Council as an additional pillar of the UN, promoting the “governance of the global commons” that the UNSG envisioned for the Trusteeship Council. Although the UNSG’s idea for the Trusteeship system is promising, his stated goals are already addressed in the Second Charter, and the revival of the obsolete Council in the current Charter would not significantly add to those objectives. Instead, we should devote our attention to the much deeper problems facing the UN’s ability to govern global issues and represent marginalized voices—problems that this Second Charter begins to remedy.

CHAPTER XII

THE EARTH SYSTEM COUNCIL

Composition

Article 1

1. The Earth System Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.
2. Except as provided in paragraph 3 of this Article, eighteen members of the Earth System Council shall be elected each year for a term of three years. A member whose term has ended shall be eligible for re-election in the immediately succeeding term, or in any term thereafter.
3. The first fifty-four members of the Earth System Council shall be elected to staggered terms that vary in tenure from one to three years. One-third of the initial membership shall serve for one year; one third shall serve for two years; and the final third of the initial membership shall serve a full three-year term. All members subsequently elected shall serve a full three-year term.
4. Each member of the Earth System Council shall have one representative.

Functions and Powers

Article 2

The Earth System Council shall operate under the direction of the General Assembly and the Parliamentary Assembly and will assume the powers and functions of the United Nations Environment Assembly that will cease operations. Towards the ends of ensuring that planetary environmental limits are not exceeded, and that responsibility for respecting those limits are assumed by the international community in accordance with justice and equity, the Earth System Council shall have the following additionally specified powers:

1. To request information and reports from, and to provide guidance to, the various environmental treaty bodies and other governmental and civil society environmental organizations with the goal of coordinating global environmental policy, harmonizing international environmental law, and developing proposals for the institutional consolidation of intergovernmental environmental regimes.
2. To enter into agreements with the various environmental treaty bodies, defining the terms on which the treaty body concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.
3. To initiate studies and make recommendations promoting the health of the global environmental system and the preservation of the global commons.
4. To provide environmental policy advice to the General Assembly and the Parliamentary Assembly.
5. To oversee the negotiations and implementation of global environmental treaties and other agreements.
6. To develop and implement a programme of public education regarding environmental sustainability, including but not limited to the publication of authoritative reports, the administration of conferences and other public events, and the providing of expertise to the

media and the lay and scientific communities.

7. To assume such other globally environmentally related responsibilities as may from time to time be assigned to it by the General Assembly and the Parliamentary Assembly.

Voting

Article 3

1. Each member of the Earth System Council shall have one vote.
2. Decisions of the Earth System Council shall be made by a majority of the members present and voting.

Procedure

Article 4

1. The Earth System Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Earth System Council may request representatives of the other Councils and specialized agencies to participate, without vote, in its deliberations.
3. In conformance with the Protocol adopted by the General Assembly and the Parliamentary Assembly pursuant to Article 8 (2), the Earth System Council shall make suitable arrangements for consultation with non-governmental organizations, civil society and other stakeholders which are concerned with matters within its competence. Such arrangements may also be made with international organizations.

Global Environment Agency

Article 5

1. A Global Environment Agency shall be established to function under the direction of the Earth System Council.
2. The Global Environment Agency shall be the executive organ of the Earth System Council and shall assume the functions of the United Nations Environment Programme which will cease operations. In addition to any responsibilities adopted from the United Nations Environment Programme, the Global Environment Agency shall be responsible for providing legal and administrative support for the Council's policy-related work, managing the Council's relationships with environmental treaty bodies and other outside entities, supervising the Science Panel for Earth System Risks established under Article 5(4), administering the Council's programme of public education, and assuming other global environmentally related responsibilities as assigned by the Council.
3. The Earth System Council shall appoint an Executive Director to lead the Global Environment Agency. The Agency shall be staffed by United Nations personnel, who shall report to the Executive Director.
4. A Science Panel for Earth System Risks shall be established to advise the Earth System Council and further the Council's public education mission. The Panel shall be composed of recognized experts from the natural and social sciences and other knowledge systems and shall provide evidenced-based reports on the state of the Earth's environmental systems that will serve as a basis for policy action by the Council and for the fulfilment of

the Council's public education mission. The reports of the Panel shall be freely accessible to the public.

Comments on Chapter XII

We have included as one of the Second Charter's four Councils, the Earth System Council. While no institutional structure can substitute for an absence of political will, once functional, the Council will help close the institutional gap between current global environmental structures and what is necessary to meet the planet's life-threatening global environmental challenges.

The Earth System Council we propose will have the stature and authority necessary to begin the process of harmonizing and coordinating global environmental governance. Rather than starting *ab initio*, our proposed organizational structure builds upon the existing global institutional framework. The United Nations Environment Assembly is subsumed into the United Nations Earth System Council to create a more robust organization that will have the institutional ability to effectively promote the coordination and harmonization of global environmental law and policy. Over time, the Earth System Council will have the ability to help facilitate the consolidation of the highly fragmented global environmental governance architecture.

Similarly, the United Nations Environment Programme will be incorporated into a more empowered Global Environmental Agency that will operate under the aegis of the Council and have the ability to carry out its mandates. Finally, a scientific panel answerable to the Executive Director of the Agency will be empowered to provide expert advice to the Council and the public at large. These institutional innovations will foster directly the creation of international environmental laws and judicial mechanisms capable of tackling the planet's multiple environmental crises.

CHAPTER XIV

THE INTERNATIONAL COURT OF JUSTICE

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are *ipso facto* parties to the **Revised** Statute of the International Court of Justice **and consent to the Court's compulsory jurisdiction.**
2. A state which is not a Member of the United Nations may become a party to the **Revised** Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly **in consultation with the Parliamentary Assembly ~~upon the recommendation of the Security Council.~~**
3. **International organizations and civil society organizations and other stakeholders who have concluded arrangements with the Economic and Social Council under Article 71 may intervene in proceedings with the permission of the Court on conditions to be determined by the Court.**

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
2. If any party to a case fails to perform the obligations incumbent upon it under a judgement rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment. **A member of the Security Council that is a party to a case shall abstain from voting. The Article 27 (3) requirement of permanent member concurring votes shall not apply to measures taken under this Article.**

Article 95

1. Nothing in the **Second** Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.
2. **The International Court of Justice may exercise appellate jurisdiction to review a decision of law in any dispute before any international court or tribunal whose governing documents or practices allow for final appeal to the International Court of Justice upon the application of a litigant to the dispute, who is a member of the United Nations, or in the case of an investment dispute, a non-state party litigant. All appellate decisions of law under this provision are final and binding upon the parties to the dispute.**
3. **The International Court of Justice may exercise binding judicial review over decisions or actions of United Nations bodies referred to in paragraphs 1 and 2 of Article 96, upon the request of any Member of the United Nations, organ of the United Nations, specialized agency, or intergovernmental organization, so long as the Court determines that the requesting party has proper standing to make such request.**
4. **Where a question of international law is relevant to a decision of the highest level court**

or tribunal of a Member of the United Nations, upon that court or tribunal's request, the International Court of Justice may render it an advisory opinion.

Article 96

1. The General Assembly, ~~the Parliamentary Assembly, the Secretary-General and~~ the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.
2. Other organs of the United Nations and specialized agencies, ~~which may at any time be so authorized by the General Assembly, and, if so authorized by the General Assembly, other intergovernmental organizations~~ may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

Comments on Chapter XIV

The Second Charter and the Statute of the International Court of Justice

The primary constituent document of the International Court of Justice is the Statute of the International Court of Justice, which per Article 92 of the Charter “forms an integral part of the Charter.” Therefore, the proposed revisions in Chapter XIV are reflected and expanded upon, as appropriate, in our redraft of the Statute of the International Court of Justice (available on the website of the Global Governance Forum at www.globalgovernanceforum.org).

Comment on Article 93

This Article in paragraph 1 provides for compulsory jurisdiction by the Court. This means that the Court could exercise binding jurisdiction over all states without any need for further consent (beyond Article 93) by those states. The issue of whether to grant the Court binding jurisdiction over states generally has been contentious going back to the founding of the Permanent Court of International Justice. More often than not, the lack of state consent to jurisdiction has precluded the Court from adjudicating important inter-state conflicts in need of an authoritative legal resolution. Believing in the ever-growing necessity of a Court empowered to hear disputes between states generally, we chose to resolve the century-long dispute over jurisdiction in favor of compulsory jurisdiction for the Court.

In paragraph 3 the Article provides for intervention in Court proceedings by non-governmental organizations in consultative status with ECOSOC. Non-parties to legal proceedings, with a policy interest in their outcomes, frequently provide amicus curiae briefs and other communications to courts in national and international proceedings. This paragraph is a result of our conclusion that the International Court of Justice could benefit from a formal clause providing for such intervention.

Comment on Article 95(2)

This provision allows for the International Court of Justice to exercise appellate review over the decisions of other international tribunals, so long as the regimes establishing those tribunals authorize such review. A historical precedent for the ICJ exercising appellate review is found in the 1948 Havana Charter for an International Trade Organization. Article 96(2) of the Havana Charter provided that states whose interests were prejudiced by decisions of the Organization's Conference (which was to function as a quasi-judicial body) could seek review before the International Court of Justice.³⁰

Even though the current ICJ Statute (in effect in 1948) only allows international organizations to seek advisory opinions, the Havana Charter provided that “the Organization shall consider itself bound by the opinion of the Court on any question referred by it to the Court.”⁵¹ Although the Havana Charter provisions establishing a formal international organization (including Article 96) never came into force,⁵² the fact that Article 96(2) was included in the Charter demonstrates that political realities accommodated the prospect of ICJ appellate jurisdiction even in the less internationalized world of the mid-20th Century.

Empowering the International Court of Justice to exercise appellate review could improve the global dispute resolution system in three primary ways:

1) It could help to authoritatively settle international legal rules in situations where there are conflicting interpretations (referred to in international law literature as legal fragmentation). Currently, the myriad specialized international tribunals⁵³ have the potential to issue conflicting rulings. For example, the United States, Mexico, and Canada are members of both the United States-Mexico-Canada Agreement (USMCA) and the World Trade Organization, each with overlapping mandates and their own trade tribunals capable of arriving at different results in the same or similar cases. Lines of authority among tribunals or regimes with seemingly unrelated mandates, particularly in the areas of trade, investment, the environment, and human rights, can also overlap because the facts and law presented by cases do not always conform to jurisdictional boundaries.

Given the now-established record of international courts and tribunals deferring to each other’s decisions,⁵⁴ concerns about fragmentation have generally receded. Given the sheer number of bilateral investment treaties (over two thousand), however, fragmentation in the investment area continues to be of significant concern, and with several major high-stakes international climate change decisions in progress, we believe the potential for conflicting and divisive holdings militates in favor of giving the ICJ the ability to exercise appellate review.

2) For the International Court of Justice to begin to become a global court of final appeal could, over time, buttress the Court’s visibility and legitimacy.

3) As such, this provision also has the potential to improve compliance with international law. In a self-reinforcing cycle, if the Court were to gain more visibility and legitimacy as the court of appeal for more and more tribunals, its ability to secure compliance with its rulings would likely grow correspondingly.

Comment on Article 95(3)

This provision allows for parties who perceive themselves as harmed by UN bodies (or possibly non-United Nations international organizations) to petition the Court for binding redress. Currently, there are minimal and only idiosyncratic judicial checks and balances on international organizations to ensure that they follow international law and their own rules. This is inconsistent with generally-accepted (in democratic societies) notions of political accountability. It also undermines respect, and corresponding support, for the international system.

Comment on Article 95(4)

This revision empowers the Court to answer requests for advisory opinions from the highest-level domestic tribunals of members of the United Nations when those tribunals determine that the Court’s authoritative opinion on international law would be helpful to their disposition of cases. There is history supporting that this kind of revision has the potential to gain political support in the success of Article 177 of the EEC treaty allowing European Union country courts to request

“preliminary rulings” on European law from the European Court of Justice.

Importantly, this revision would in most countries likely not require any affirmative implementation. In the absence of domestic law to the contrary, presumably there would be no barrier to national tribunals in their own discretion requesting the advice of the Court. In such circumstances, it is very likely that at least some forward-thinking tribunals would seize the opportunity to reach out to the Court, and, if there is no political reaction blocking such outreach, other tribunals might well, over time, make such requests. A similar practice is already commonplace in federal systems such as that of the United States, where federal courts often reach out to state courts to give opinions on matters of state law before federal courts.³⁵

As was the rationale for Article 177, this provision could help better integrate both the Court and international law into the legal systems of Member States, helping to create a more seamless system of global law.

CHAPTER XV THE SECRETARIAT

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. **Candidates may apply for the position of Secretary-General, provided they meet the criteria established by the General Assembly. Upon consideration of such applications, the General Assembly votes and lists the five candidates who receive the highest number of votes. The Parliamentary Assembly then votes on these five candidates and the applicant receiving the highest number of Parliamentary Assembly member votes will be appointed for a single seven-year, non-renewable term. She/he The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He** shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity **in all and her/his representatives shall attend** meetings of the General Assembly, **of the Parliamentary Assembly**, of the Security Council, of the Economic and Social Council, **and of the Trusteeship Council of the Human Rights Council, and of the Earth System Council**, and shall perform such other functions as are entrusted to her/him by these organs. The Secretary-General shall make an annual report to the General Assembly **and the Parliamentary Assembly** on the work of the Organization.

Article 99

1. The Secretary-General may bring to the attention of the **General Assembly, Parliamentary Assembly and Security Council** any matter which in her/his opinion may threaten the maintenance of international peace and security, **entail human rights violations, or put at risk the achievement of any of the purposes and objectives in the UN Charter.**
2. **The Secretary-General will offer to the other principal organs of the United Nations the services of relevant Offices, Departments, Regional Commissions, Special Advisors and other parts of the Secretariat to facilitate the maintenance of international peace and security and the achievement of all other purposes and objectives in the UN Charter.**

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.
2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly **in consultation with the Parliamentary Assembly.**

2. Appropriate staffs shall be permanently assigned to **the Security Council**, the Economic and Social Council, **the Human Rights the Trusteeship Council**, **the Earth System Council** and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.
3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible **and consistent with the provisions on gender equity referred to in Article 8 (1)**.

Comments on Chapter XV

The role of the Secretary-General and the Secretariat at large have gradually evolved into an international civil service. The Secretariat should serve as a repository of lessons learned and expertise from which the community of nations may benefit. At the same time, the Secretary-General should “embody the highest standards of efficiency, competence and integrity and demonstrate a firm commitment to the purposes and principles of the United Nations.”⁵⁶ Moral courage and a readiness to work consultatively across the membership are important additional attributes for the Secretary-General and the Secretariat to embody.

Unfortunately, history has seen numerous instances in which the autonomy and efficacy of Secretaries-General and their offices have suffered under the heavy influence of Member States, particularly the five permanent members of the Security Council, who have been able to dictate not only the activities of the Secretariat but also the approaches it espouses, and the individuals appointed to serve among its ranks. In these instances, objectivity has been sacrificed, primarily because of the organization’s political and financial dependence on these states. Fortunately, the problem is not beyond remedy and several potential solutions are within reach.

First, the Secretary-General appointment process requires an overhaul. The prominence of the Secretary-General’s role has increased over the last decades to include numerous new responsibilities, ranging from coordinating responses to war, famine and disease to developing new strategies on issues such as gender equality and management and appointment of staff within the UN system. While the selection of the Secretary-General has always been of vital importance, the increased visibility and responsibility held by the office requires increased vigilance and accountability in both the selection process and the attributes, professional and personal, of the individual chosen. The practice of the Security Council proposing a single Secretary-General candidate for the General Assembly to approve pro-forma often resulted in credible candidates being vetoed by a single P-5 state. In the above redrafting of Article 97 the General Assembly will select the top five candidates and forward their names to the Parliamentary Assembly for a vote in that body. The applicant receiving the highest number of General Assembly and Parliamentary Assembly member votes will be appointed for a single seven-year, non-renewable term. This would confer greater legitimacy to the selection process and allow the Secretary-General to assume the role with enhanced credibility.

In 2016, General Assembly Resolution 69/321 improved the process of selecting the Secretary-General by calling for applications, listing specific criteria to meet, and allowing candidates to write vision statements and appear for interactive dialogues with the General Assembly. As a result, roughly one dozen candidates, many of them women, went through a transparent selection process. A later Resolution 75/325 further improved the process by allowing civil society to nominate applicants for Secretary-General.⁵⁷ However, applicants remain subject to a shortlisting process by the Security Council where P-5 members retain a veto.⁵⁸

A second innovation that could enhance the legitimacy of the Secretary-General would be to

introduce a single seven-year, non-renewable term for the Secretary-General, thereby freeing her/him from the conflict that may otherwise result between the interests of those who hold the possibility of re-appointment in their hands, and the countries which it is their mission to serve. In this way, the Secretary-General would be relieved of a degree of pressure to place personal interest above the functions of the office. This idea is not new; a 1997 General Assembly resolution (51/241) invited the Member States to consider a single longer term.³⁹ At times, the concept of a single non-renewable term has been publicly supported by as many as 145 member states. Far from limiting the tenure of an effective Secretary-General, it would ensure that the individual would be effective from day one. Moreover, a competitive election process would ensure that more candidates are given the opportunity to be considered.

CHAPTER XVI

MISCELLANEOUS PROVISIONS

Article 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the ~~original present~~ Charter ~~came comes~~ into force **in 1945, including every such treaty or agreement entered into by any Member State after this Second Charter comes into force**, shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under **this Second the present** Charter **or binding obligations on states enacted thereunder** and their obligations under any other international agreement, their obligations under **this Second the present** Charter **or such laws and regulations** shall prevail.

Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives **in the General Assembly, the Parliamentary Assembly, members of the other organs of the United Nations, members of the United Nations Peace Force, and officials and employees of the United Nations, including officials and employees of its various authorities and agencies, of the Members of the United Nations and officials of the Organization** shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the **United Nations Organization**.

3. The General Assembly **and the Parliamentary Assembly** may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Member **States** of the United Nations for this purpose.

CHAPTER XVII

TRANSITIONAL SECURITY ARRANGEMENTS

Article 106

~~Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, 30 October 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.~~

Article 107

~~Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.~~

CHAPTER XVIII AMENDMENTS

Article 108

Amendments to the ~~present~~ **Second** Charter shall come into force for all Member States of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly, **two-thirds of the Parliamentary Assembly** and ratified **by two-thirds of the Members States of the United Nations** in accordance with their respective constitutional processes ~~by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.~~

Article 109

1. A General Conference of the ~~General Assembly and the Parliamentary Assembly~~ **Members of the United Nations** for the purpose of reviewing ~~this~~ **present Second** Charter may be held at a date and place to be fixed by a two-thirds vote ~~of the members~~ of the General Assembly and **by the approval of two-thirds of the members of the Parliamentary Assembly, and by a vote of any nine members of the Security Council.** ~~Each Member of the United Nations shall have one vote in the conference~~
2. Any alteration of ~~this~~ ~~present~~ **Second** Charter recommended by a two-thirds vote of the ~~Member States and two-thirds of the members of the Parliamentary Assembly~~ **represented at the** conference shall take effect when ratified ~~in accordance with their respective constitutional processes~~ by two-thirds of the ~~Members States~~ of the United Nations **in accordance with their respective constitutional processes, including all the permanent members of the Security Council.**
3. If such a ~~General~~ **C**onference has not been held ~~within any future ten-year period before the tenth annual session of the General Assembly~~ following the coming into force of ~~this~~ ~~the~~ **present Second** Charter, ~~the proposal to call such a General C~~onference shall be **convened within five years following that ten-year period, placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.**

CHAPTER XIX

RATIFICATION AND SIGNATURE

Article 110

~~1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.~~

1. This Second Charter shall be open to all current Member States of the United Nations for ratification, acceptance, or approval upon recommendation of two-thirds of state delegates to the Charter Renewal Conference established by the United Nations General Assembly. Instruments of acceptance, ratification, or approval shall be deposited with the Secretary-General of the United Nations.

~~2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.~~

2. This Second Charter shall enter into force upon the deposit of ratification of a majority of the members of the United Nations. Other non-acceding current members of the United Nations may accede to the Second Charter after it comes into force.

~~3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.~~

3. Upon coming into force, this Second Charter shall establish a new legal entity, however, the new legal entity will maintain the name, “the United Nations,” and it will be the successor to all the assets, liabilities, rights and responsibilities of the former United Nations including, but not limited to, treaties (under the terms of the Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations), contracts, and memoranda of understanding to which the former United Nations has entered. All operative resolutions, decisions, policies, and practices of the former United Nations shall maintain their full force and effect.

~~4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.~~

4. Upon the coming into force of this Second Charter, all previous Member States of the United Nations will be deemed to be Member States of the new United Nations organizations. The United Nations Charter will terminate six months after the date of entry into force of the Second Charter. In light of unforeseen circumstances, the General Assembly and the Parliamentary Assembly may decide to postpone the date of termination by no more than one year.

Article 111

The ~~Second present~~ Charter, of which the ~~Arabic~~, Chinese, French, Russian, English, and Spanish texts are equally authentic, shall ~~be remain~~ deposited ~~in the archives of with the Secretary General of the Government of the United States of America United Nations~~. Duly certified copies thereof

shall be transmitted by **the Secretary General of the United Nations that Government** to the Governments of **the other signatory all Member states of the United Nations**.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have

signed this **Second present** Charter.

DONE at **the city of San Francisco** the **twenty-sixth** day of**June, onetwo** thousand **twenty-nine hundred and forty-five**

Comments on Chapters XVIII and XIX

Overview of Applicability of Articles 108, 109 and 110 to Current and Future Reform Efforts

Articles 108 and 109, as they currently read, are in force and define the requirements for amending the present charter. The changes proposed to Articles 108 and 109 would, therefore, only apply to future amendments of the Second Charter, rather than the current reform efforts. Because, as discussed below, the amendment veto powers given to the Permanent Five Security Council members could doom reform efforts, the redraft of Article 110 provides an extra-Charter process for pursuing reform.

Explanation of Revisions to Articles 108 and 109

In prescribing the process for Second Charter amendments, the Articles 108 and 109 redraft departs from the basic structure of the original Articles by giving the new Parliamentary Assembly a role in the amendment process. It additionally eliminates both the power of the Security Council to prevent a review conference from proceeding and the power of the current veto wielding Security Council members to block the adoption of future amendments.

Explanation of Revisions to Article 110

The Rationale for Creating a “New” United Nations

As discussed above, the in-force provisions of Articles 108 and 109 allow for any permanent member of the Security Council to veto Charter reforms they oppose. If the proposed Second Charter contains the features of reform currently envisioned, there is a significant possibility that one or more veto-wielding Council members would be opposed and would veto the proposed Second Charter.

In fact, the potential for a veto to ultimately defeat the reform project might lead other member states to consider the project futile, making it very difficult to make it viable. The Second Charter project, therefore, is only likely to succeed (at least in the short term) if we can devise a legally and politically viable way around the P5 amendment veto. This is a difficult challenge, as it is clear under international law that the process of amending the Charter must conform to the amendment requirements of the Charter itself.⁴⁰

Indeed, if the reform project were to proceed with amending the current Charter, this would seem to be an impossible barrier to overcome. If states were, however, to found a new legal organization, in establishing that organization, they would no longer be bound to the amendment rules prescribed by the existing United Nations Charter. Rather, international law would allow them to establish their own accession rules.

An important precedent for creating a new political entity when stymied by the amendment rules

of an existing entity can be found in the institution of the United States Constitution. Amendment of the American Articles of Confederation, in effect from 1777, required unanimous ratification by all 13 American states. With the knowledge that this would be a difficult hurdle to overcome, the American Constitutional framers in 1787 circumvented the amendment provisions of the Articles of Confederation by establishing a new legal entity with the same name, the United States of America, but with a wholly new constitution that would require ratification by only nine of the thirteen states.⁴¹

The Political Dynamics of Creating a New United Nations

Beyond the requirement of legality, the democratic legitimacy and diplomatic muscle to implement the Second Charter would come with the political clout that the requisite two-thirds of the states needed for amendment approval would bring to the project. To be sure, accomplishing a refashioning of the United Nations, if against the wishes of permanent members, would be quite difficult, even without the technical complications of substituting in a new legal entity. While an in-depth discussion of the negotiating dynamics is beyond the scope of this commentary, suffice to say that the reform project would have to be calibrated so as to make it clear that the global center of gravity was moving towards the critical mass of forward-thinking states and that permanent members could not stop the momentum towards reform. At the same time, for the new organization to be effective, enough incentives would have to be offered to those powers that they would deem their interest better served through participation in, rather than abandonment of, the emerging new system.

Explanation of the Transition Language in Article 110

The revisions of Article 110 prescribe the process by which the Second Charter could come into force and by which it could become, as seamlessly as possible, the successor organization to the current United Nations. As such, it contains language providing maintenance of the name, “the United Nations,” that it takes on the rights and responsibilities of the old organization, and that all of the United Nations’ previous resolutions, decisions, policies, and practices remain in full force and effect.

As a practical matter, carrying out a legal transition to a technically new organization would involve more than providing transition language in the Second Charter. Some mechanism would have to be found for the old organization to assign its assets, rights, and responsibilities to the new organization. The General Assembly of the old organization would be likely to have some role in providing that the Subsidiary Organs become Subsidiary Organs of the new organization, and the state parties to the Specialized Agencies would likely play a role in providing that the Agencies’ relationship agreements are transferred to the new organization. As a myriad of other kinds of United Nations-related organizations have proliferated over the years,⁴² legal work would have to be carried out to determine the best ways to affect a transfer of their relationships to the new organization.

All of this work could be carried out in a fairly straightforward way with the help of competent legal counsel. The difficult part is overcoming the political challenges of getting the relevant state parties (including those powers who would be losing institutional prerogatives) to cooperate institutionally in facilitating the transition. Hopefully, this could proceed smoothly once it became apparent to all parties that the progressive transition was unavoidable, and little could be gained from political obstruction.

Along these lines, one preliminary political/legal challenge that would have to be overcome to initiate the review conference is the requirement of current Article 109.1, viz. that nine members of the Security Council must acquiesce to its launch. If the five permanent Council members are

opposed, this would mean that of the 15-member Council, all of the non-permanent members, save one, would have to be supportive—a tall order. The way around this would be to launch the review (or what is referred to in the Second Charter draft as a “renewal”) conference, independent of the authority provided by Article 109. As the draft language in Article 110.1 reflects, whether to launch a conference could still be discussed and even voted on in the General Assembly; but technically the conference itself would not be an Article 109 review conference.⁴³

The final sentence of the redraft of Article 110 provides that “all previous members of the United Nations will be deemed to be members of the New United Nations.” To use the United States as an example, even if the American Executive acted pragmatically to acquiesce to the Charter revisions, there is little prospect that the new Charter could secure the requisite two-thirds treaty ratification vote in the United States Senate. In this political era, even non-controversial treaties, such as the Convention on the Rights of Persons with Disabilities, cannot secure US Senate approval.⁴⁴ By providing for countries to maintain membership, however, it is plausible that even countries who oppose the reforms will be enticed to participate in the organization, or at least to maintain an ambiguous posture towards their participation in it.⁴⁵

Of course, such countries could always argue that the organization cannot make decisions that would impose legal obligations on them, as they have not consented to be bound by the Second Charter. This would be more a problem in theory than in practice, however, as countries drawn into the organization’s processes to achieve their own foreign policy objectives, would be hard pressed to argue credibly in the court of international opinion that the organization’s pronouncements had no normative pull on their behaviour.⁴⁶ As a new more progressive and hopefully more functional organization was better able to manage the global commons, it is to be hoped that over time the emerging normative realities could be appropriately reflected in formal law.

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Endnotes

¹ For instance, General Assembly Resolution 44/146 (1989) on “Enhancing the effectiveness of the principle of periodic and genuine elections” stressed “its conviction that periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed and that, as a matter of practical experience, the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment by all of a wide range of other human rights and fundamental freedoms, embracing political, economic, social and cultural rights.” And General Assembly Resolution 55/2 (2000), one of the more substantive resolutions issued in recent decades, also known as the United Nations Millennium Declaration, states: “we consider certain fundamental values to be essential to international relations in the twenty-first century.” These include: freedom, equality, solidarity, tolerance, respect for nature, and that “democratic and participatory governance based on the will of the people best assures these rights.” Clearly the United Nations voice in these important matters would carry considerably more weight if it were seen as being imbued by adequate levels of democratic legitimacy.

² Global Governance Forum. 2023. “A Second Charter: Imagining a Renewed United Nations.” https://globalgovernanceforum.org/wp-content/uploads/2023/08/SecondCharter_Imagining-Renewed-United-Nations.pdf, pp. 37–8.

³ The rationale for adding a PA and adopting a bicameral structure has been extensively discussed in the literature. The content in this comment section draws on the following works: Brauer, Maja, and Andreas Bummel. 2020. *A United Nations Parliamentary Assembly: A Policy Review of Democracy Without Borders*. Berlin: Democracy Without Borders. https://www.democracywithoutborders.org/files/DWB_UNPA_Policy_Review.pdf; Leinen, Jo, and Andreas Bummel. 2018. *A World Parliament: Governance and Democracy in the 21st Century*. Berlin: Democracy Without Borders; and Lopez-Claros, Augusto, Arthur L. Dahl, and Maja Groff. 2020. *Global Governance and the Emergence of Global Institutions for the 21st Century*. Cambridge University Press. <https://doi.org/10.1017/9781108569293> (chapter 5); Schwartzberg, Joseph. 2013. *Transforming the United Nations System. Designs for a Workable World*. Tokyo, New York, Paris: United Nations University Press (chapter 3).

⁴ Countries with only two representatives on the PA would be expected to have mixed gender representation. On the empirical evidence about the benefits of improving women’s political empowerment, see Lopez-Claros, Augusto and Nakhjavani, Bahiyih, *Equality for Women = Prosperity for All: The Disastrous Crisis of Gender Inequality*, St. Martin’s Press, 2018.

⁵ According to The Economist’s Democracy Index 2023, of the 167 countries covered in the index, 24 are full democracies, 50 are flawed democracies, 34 are hybrid regimes and 59 are fully authoritarian. The index brings together 5 key elements of democracy that capture the electoral process and pluralism, the functioning of government, political participation, political culture, and civil liberties. So, a total of 108 countries are non-authoritarian, equivalent to 64,7 percent of the total.

⁶ Appendix I below shows one possible scenario. For additional ones see: Brauer and Bummel, *ibid*, ch. 5.

⁷ General Assembly resolution 377 A, adopted in November of 1950 states that “if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security.”

⁸ By tracking the language in Article 39 in the first part of the italicized text (“The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression . . .”), we are hoping to draw an implicit reference to a far more significant ceding of powers in the 1945 Charter. The determination of an “exigent situation” in our draft would not be a precursor to the use of military force against individual countries, as is the case with an analogous determination under Article 39 that allows for a binding Security Council resolution under Article 42. By utilizing the phrase “in whole or in part” in the latter part of the italicized text, we are making implicit reference to the similar formulation in the Genocide Convention (“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”). As with the formulation triggering action to protect specific peoples under the Genocide Convention, this would allow something less than imminent extinction of the entirety of the human race to allow for the two assemblies to act.

⁹ Either in this Article, in Chapter 14 of the New Charter, or in the Court's Statute, it would need to be made clear which parties have standing to bring a challenge before the Court. Almost certainly individual states should possess such standing.

¹⁰ This authority could possibly also be assigned to an upgraded UN Environment Assembly, although this would probably be outside of our Charter reform charge, as it would most likely not be a matter for inclusion in the UN Charter. The advantage of this approach is that the UN Environment Assembly is already established with universal membership.

¹¹ The argument might be made that this regulatory power should be given to the Conferences of the Parties operating under the United Nations Framework Convention on Climate Change. As long as the Conferences operate by consensus, however, an effort to create the kind of legislative framework suggested here would fail in that forum.

¹² Global Governance Forum, 2023.

¹³ UN membership comprises five regional groups: 54 states in the African Group (28%), 54 states in the Asia-Pacific Group (28%), 23 states in the Eastern European Group (12%), 33 states in the GRULAC Group (17%) and 29 states in the Western Europe and Others Group (15%). Countries in the Middle East and North Africa (MENA) are allocated to Africa and Asia. An alternative allocation is to base regional representation on population, rather than the number of states in each region. In this case, these numbers could be updated once a decade, reflecting demographic trends.

¹⁴ France, Russia and the United Kingdom have a combined population of slightly less than 3.6 percent of the total world population. Their combined share of world GDP is higher, at 8.1 percent in 2022. Of the three countries, Russia's economy is the smallest, accounting for 2.2 percent of world GDP.

¹⁵ No view is taken here on how the other 188 members would be allocated among the 20 remaining chairs. The example above for the six Southern Cone countries comes from IMF/World Bank country allocations, which may not necessarily be the ones chosen by UN members states. One advantage of the IMF/World Bank system, based on established practice, is that votes are seldom taken. The Chair gets a sense of where the discussions are going and whether, for instance, there is broad support for, say, approving the loan in question to country X; if so, the loan is approved. Only on very contentious issues is a vote actually taken, counting up voting power chair by chair. The practice has generally given primacy to consultation over power politics. One further point of a logistical nature: in practice, every 10 years the economy/finance ministers and central bank governors of Argentina, Bolivia, Chile, Paraguay, Peru and Uruguay get together and allocate among them the roles of Executive Director (the spokesperson for the group), Alternate Executive Director and various advisor roles, among them, to serve on two-year rotations. Larger countries tend to get more senior roles; the smaller countries may get to represent the group as the lead spokesperson less frequently than Argentina, and so on. When there is a need to take a vote at the Executive Board, the voting power is the sum of the voting powers of the six countries in this example.

¹⁶ In Chapter VII, provisions are made for the establishment of a United Nations Peace Force, significantly strengthening the collective security regime. However, the establishment of that Force is contingent on progress being made on the disarmament front, both processes moving in parallel. In the meantime, peacekeeping can continue to be an active element of the United Nations attempts at peaceful settlement of disputes.

¹⁷ The principle of common but differentiated responsibilities was first mentioned in Principle 7 of the Rio Declaration and Article 3(1) of the United Nations Convention on Climate Change. Both documents were adopted at the 1992 United Nations Conference on Environment and Development, held in Rio de Janeiro. This principle is the foundation of international environmental law as it recognizes different levels of obligation and ways to overcome the asymmetrical capabilities between developed and developing countries.

¹⁸ Many important international organizations, which are now part of the UN family as specialized agencies, preceded the UN: the International Telecommunications Union (ITU), created in 1865; the Universal Postal Union (UPU), created in 1874; the International Labour Organization (ILO), created in 1919; the United Nations Relief and Rehabilitation Administration (UNRRA), created in 1943; the Bretton Woods Institutions (the International Monetary Fund and the World Bank Group), created in 1944; and the International Civil Aviation Organization (ICAO), also created in 1944.

¹⁹ See the proposed amendments to Chapter X – Economic and Social Council.

²⁰ *Idem*.

²¹ One important area of policy review and guidance is the Humanitarian Affairs Segment of ECOSOC and its work on post-conflict peacebuilding assistance, since it will progressively demand a closer relationship with the Security Council, considering the debate on peacebuilding and development nexus. This relationship can be strengthened based on Article 65 (Chapter X).

²² One major comparative advantage of ECOSOC is its capacity to produce statistics, research, policy, and analysis. Including analytical leadership as part of its functions will increase intellectual collaboration among entities of the UN development system and promote greater knowledge-sharing and peer-learning.

²³ For example, the recently reformed United Nations Sustainable Development Group (UNSDG), chaired by the Deputy Secretary-General and vice-chaired by the UNDP Administrator, has the mandate of coordinating and guiding all the entities of the UN development system, competing with ECOSOC and minimizing its role in coordinating the specialized agencies. Future reforms must clarify the differences in mandate between them. ECOSOC should especially have a greater role in consolidating the Executive Boards of the specialized agencies.

²⁴ One example of the importance of improving ECOSOC's role in providing policy guidance to specialized agencies is the interaction between ECOSOC, the Bretton Woods Institutions, and the World Trade Organization. This relationship has been an issue since the creation of the UN, considering that ECOSOC exerts only a *de jure* but not a *de facto* power in coordinating them as specialized agencies under the UN development system. Strengthening the partnership between them is crucial to the follow-up and review of global goals, especially in the realm of financing for development.

²⁵ For example, the Northern section of Cameroon under British administration voluntarily joined the independent Nigeria.

²⁶ In a UN report published in September 1994, the UN Secretary General at the time, Boutros Boutros-Ghali, suggested that "the General Assembly proceed with steps to eliminate" the council. However, members of the General Assembly expressed fears that doing so could "open up a can of worms" which could call into question other core parts of the UN structure, <https://www.nytimes.com/1994/11/06/world/work-ended-trusteeship-council-resists-un-ax-for-now.html>.

²⁷ For a more detailed overview of this suggestion, see Lloyd Axworthy, Michael W. Manulak and Allan Rock's article in *Foreign Affairs* on 15 May 2024, entitled "A UN Trusteeship for Palestine." A further consideration in this regard is that Articles 83 and 86 give a central role to the Security Council in the administration of trusteeship agreements and the operations of the Trusteeship Council, a feature which might impair at the outset the chances for a successful outcome.

²⁸ The Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (referred to as the Special Committee on Decolonization or C-24) was established by the General Assembly in 1961. The Committee annually reviews the list of Non-Self-Governing Territories; examines political, economic, and other developments in the territories; makes recommendations to the General Assembly, usually in the form of draft resolutions; hears statements from representatives and individuals from the territories; and dispatches visiting missions to the territories.

²⁹ Our Common Agenda: Report of the Secretary-General, United Nations Official Document System, <https://documents.un.org/doc/undoc/gen/n05/217/77/pdf/n0521777.pdf?token=C6Qc8psHgmACxBam5v&fe=true>

³⁰ Article 92 (2) provided as follows: "Any decision of the Conference under this Charter shall at the instance of any Member whose interests are prejudiced by the decision, be subject to review by the International Court of Justice by means of a request, in appropriate form, for an advisory opinion pursuant to the Statute of the Court." The Havana Charter is available at: https://www.wto.org/english/docs_e/legal_e/havana_e.pdf.

³¹ See, Article 96 (5).

³² The Chapter on Commercial Policy with certain additions was taken out and turned into the General Agreement on Tariffs and Trade (GATT), which was brought into force quickly through a Protocol of Provisional Application.

³³ Europe, the Americas, and Africa, all have human rights courts, which have been complemented by a plethora of war crimes tribunals. Various international tribunals have also come to play a major role in resolving international trade disputes. In addition to the panels and Appellate Body of the World Trade Organization, the jurisdiction of the European Union's European Court of Justice extends to trade disputes and much more. The United States-Mexico-Canada

agreement establishes a range of tribunals to deal with specific trade and other matters. ASEAN, the African Union, and MERCOSUR all have institutional machinery to settle trade disputes. This machinery, at least to some extent, relies on adjudication, as do many of the numerous bilateral free trade agreements between states. Other international regimes, such as The Law of the Sea Treaty, have established international tribunals to adjudicate disputes within their subject matter areas. For a comprehensive listing of tribunals as well as compliance and oversight bodies, see Project on International Courts and Tribunals, *The Project on International Courts and Tribunals: International Judiciary in Context*, http://www.pict-pcti.org/publications/synoptic_chart/synop_c4.pdf.

³⁴ See, for example, Anne Peters, *The Refinement of International Law: From Fragmentation to Regime Interaction and Politicization*, *International Journal of Constitutional Law*, Volume 15, Issue 3, July 2017 at 671, available at <https://doi.org/10.1093/icon/mox056>

³⁵ See, Rebecca A. Cochran, *Federal Courts Certification of Questions of State Law to State Courts: A Theoretical and Empirical Study*, 29 *J. Legis.* 157 (2003)

³⁶ This is the language used by the General Assembly in a 2015 Resolution (69/321; see below).

³⁷ See General Assembly Resolution 69/321 (22 September 2015) entitled *Revitalization of the Work of the General Assembly*, section titled “Selection and Appointment of the Secretary-General and other Executive Heads”, paragraphs 32–44.

³⁸ Three members of the P-5—France, Russia and the United Kingdom—with veto power over the appointment of Secretary-General candidates, together account for about 3.6 percent of the world’s population and 8 percent of world GDP. In late 2016, the P-5 could not agree on a single candidate and, de facto, the choice was ultimately made by the non-permanent members of the Security Council.

³⁹ See General Assembly Resolution 51/241, dated 22 August 1997, and titled *Strengthening of the United Nations System*, Section XIX, “The Secretary-General”, paragraph 58, which states: “The duration of the term or terms of appointment, including the option of a single term, shall be considered before the appointment of the next Secretary-General.”

⁴⁰ See, Article 26 of the Vienna Convention on the Law of Treaties, articulating and incorporating into the Convention the foundational principle under international law of *Pacta Sunt Servanda*. “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

⁴¹ See, Joseph Preston Baratta (2004b), *The Politics of World Federation: From World Federalism to Global Governance*.

⁴² See, Paul Szasz, *The Complexification of the United Nations System*, The Max Planck UNYB, 1999, available at https://www.mpil.de/files/pdf2/mpunyb_szasz_3.pdf

⁴³ The more relaxed requirement of Article 109.3 that only seven members of the Security Council need vote in favor (along with a majority of the General Assembly) is no longer applicable as it only provided that a conference be placed on the agenda of the 10th annual session of the General Assembly, if it had not been held previously. The Secretary General placed the matter on the agenda for the 10th session of the General Assembly, and by GA Res. 992 (X) the matter was postponed to a later date. See, Simma et al., *The Charter of the United Nations: A Commentary* (Oxford 1994) at 1184.

⁴⁴ The Senate rejected the treaty in 2012 even though it would have required no resources from, nor changes in law by, the United States.

⁴⁵ This has largely been the American approach in recent years to the International Criminal Court. We have opted not to include a formal opt-out provision, and as such, there would be some legal ambiguity as to how a country could formally renounce its membership in the New United Nations.

⁴⁶ Securing financial contributions to the organizations general budget could be particularly challenging, but with sufficient commitment from the other parties who would achieve great representation under the new arrangement (as well as other fiscal innovations we are proposing), it is to be hoped that any shortfalls could be overcome.