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THE QUESTION OF U.N. CHARTER REVIEW

REPORT

BY THE

SUBCOMMITTEE ON
INTERNATIONAL ORGANIZATIONS

OF THE

COMMITTEE ON
INTERNATIONAL RELATIONS

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FOREWORD

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., November 26, 1975.

This report has been submitted to the Committee on International Relations by the Subcommittee on International Organizations which conducted a hearing on the question of U.N. Charter review on July 17, 1975, pursuant to House Concurrent Resolution 206.

The conclusions and recommendations contained in this report are those of the Subcommittee on International Organizations and do not necessarily reflect the views of the membership of the full Committee on International Relations.

THOMAS E. MORGAN,
Chairman.

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS,
Washington, D.C., November 26, 1975.

Hon. THOMAS E. MORGAN,
Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Subcommittee on International Organizations hereby submits a report regarding the question of U.N. Charter review, pursuant to a hearing on House Concurrent Resolution 206, held on July 17, 1975. Due to time constraints at the time of the hearing, as well as the complexity of the issues and new developments within the U.N. system, this report is being filed in lieu of reporting House Concurrent Resolution 206.

The subcommittee hopes that the report will be useful to the committee in its consideration of legislation relating to U.S. policy toward the United Nations.

DONALD M. FRASER,
Chairman, Subcommittee on International Organizations.

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The Question of U.N. Charter Review

Introduction

Changes in membership and alinements in the United Nations have been accompanied by a growing awareness of that organization's weaknesses. Many observers have even voiced concern for the future of the U.N. as an instrument of international peace and cooperation. One product of these fears has been an increasing interest in charter review as a means of revitalizing and improving the United Nations system.

Being a major participant in and financial supporter of the world body, the United States has a natural concern over the issue of charter review. As early as 1953, the Senate adopted Senate Resolution 126, creating a special subcommittee to make a "full and complete study" of proposals to amend, revise, or modify the United Nations and its specialized agencies. In the preface to the subcommittee report, Chairman Alexander Wiley noted:[1]

> . . . charter change is not to be viewed lightly. We need expert thinking on the subject. We need that expert thinking tempered by an informed public opinion. The charter is an instrument that was developed over a period of years . . . Just as our Constitution has changed over the years under the impact of court interpretation and practice, so has the United Nations Charter changed. Some parts of the charter have worked well, others have proved useless. Some of the fundamental assumptions upon which the charter was built have not proven accurate in practice.

The impetus for the Senate investigation arose from the U.N Charter itself. Article 109 of the charter provides for the convening of a charter review conference at any time specified by two-thirds of the General Assembly and any seven members of the Security Council. And section 3 of article 109 specified General Assembly consideration of such a conference during the 10th annual meeting (1955) of that body.[2]

No charter review conference was called by the 1955 session of the General Assembly. But the Assembly did establish a Committee on Arrangements of a Conference for the Purpose of Reviewing the Charter. The Committee was instructed to consider the question of a general conference to review the charter "to be held at an appropriate time." That body met intermittently for several years, the last time in September 1967, when it recommended that it be kept in being in case any member state might request its action. So far there have been no requests.

In 1969 the question of charter review again surfaced, appearing on the Assembly's agenda on the request of Colombia. And in 1970, the

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[1] Report, Subcommittee on the United Nations Charter, Committee on Foreign Relations, U.S. Senate, 83d Cong., 1st Sess., "Review of the United Nations Charter: A Collection of Documents", Jan. 7, 1954.

[2] For the text of chapter XVIII, articles 108 and 109, pertaining to charter amendment and review, see appendix A, p. 9.

Assembly asked the Secretary General to invite member states to communicate to him their views and suggestions on the issue. But taking up a report by the Secretary General in 1972, the Assembly noted that less than one-fourth of the members had sent their comments. From the replies received, no general trend could be deduced. The Secretary General was again asked to invite member state observations so he could report them to the 1974 (29th) session of the U.N. General Assembly. On December 19, 1974, the Assembly voted to establish a 42-member ad hoc committee to review member states' views to report to the 30th session of the General Assembly.

Congressional interest in improving the United Nations continues. Legislative proposals on the subject were offered in the 92d and 93d Congresses. Congressman William L. Hungate introduced House Concurrent Resolution 258 in April 1971, requesting the President to initiate high-level studies to determine what changes should be made in the United Nations Charter. On March 29, 1972, the Honorable William S. Mailliard introduced House Joint Resolution 1143, calling for the establishment of a commission to review U.S. policy and participation in the United Nations.

"We cannot afford," Representative Hungate told a 1972 hearing of the Subcommittee on International Organizations, "to jeopardize the goal of a lasting world peace by failing to provide the tools necessary for the United Nations to be effective in working toward this goal."

On April 8, 1975, Congressman Hungate introduced another charter review proposal, House Concurrent Resolution 206, which calls for the President "to direct the Department of State to formulate constructive and forward-looking U.S. proposals for the more effective functioning of the United Nations" either through changes in the charter or through procedural changes not requiring charter amendment. The text of House Concurrent Resolution 206 follows:

[H. Con. Res. 206, 94th Cong., 1st sess.]

CONCURRENT RESOLUTION

Whereas the United Nations General Assembly voted on December 17, 1974, "to establish an ad hoc committee on the Charter of the United Nations, consisting of forty-two members to be appointed by the President of the General Assembly," and therein "invites governments to submit or bring up to date their observations" on United Nations Charter review "if possible before May 31, 1975," and said committee has been directed to report its work to the thirtieth United Nations General Assembly (opening September 16, 1975) : Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) The United States should continue in its historic role of providing world leadership in working for modernization and reform of the United Nations, and toward the establishment and preservation of a civilized family of nations in accordance with the highest aspirations of mankind.

(2) The President is hereby requested to direct the Department of State to formulate constructive and forward-looking United States proposals for the more effective functioning of the United Nations, through (a) changes in the Charter of the United Nations, and/or (b) procedural changes that may not require charter amendment, in order to promote a just and lasting peace through the development of the rule of law, including protection of individual rights and liberties as well as the field of war prevention.

The President is further requested to report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives before June 30, 1975, on the position of the United States and the proposals submitted or to be submitted in this regard.

On July 17, 1975, the Subcommittee on International Organizations held a hearing on House Concurrent Resolution 206. Because the U.N.'s ad hoc committee on charter review was slated to begin its work on July 28, passage of the concurrent resolution before that time was virtually impossible. It was suggested in the hearing that a subcommittee report be filed instead.[3] For this reason, as well as the complexity of the issues and new developments within the United Nations system, this subcommittee report has been filed in lieu of reporting House Concurrent Resolution 206. The subcommittee certainly shares and appreciates the concern of those who seek to improve the effectiveness of the United Nations organization. We hope this report will contribute to that goal.

The Arguments

PRO

Supporters of charter review argue that review is necessary to increase the U.N.'s effectiveness in dealing with a variety of international issues, and to bring that organization more into line with modern political realities. Citing among others the problems mentioned below, proponents contend that the challenges facing the United Nations and the need for concerted international action are so pressing as to require a full overhaul of the charter.

Among the areas for which charter changes have been proposed are:[4]

Peaceful settlement of disputes and peacekeeping.—The ever-present threats of conventional and nuclear war call for improved mechanisms for negotiation and peacekeeping operations. Article 33 might be redrafted to provide a specific mode of progression past a two-party impasse to increasingly higher levels of third-party involvement. Another recommended change to foster pacific settlement could be the establishment, under authority of Article 29, of permanent standing machinery to function in the peaceful settlement of political disputes.

Once fighting has erupted, there are currently no provisions, aside from disengagement resolutions, for separating the warring parties. To overcome this, the addition of a new paragraph under Article 40 has been recommended which would allow the Security Council to establish United Nations Peace Observation Teams and a United Nations Interposition Force. In the event of Security Council inaction, the General Assembly would be authorized to act.

General Assembly membership and voting.—The admission to the United Nations of the People's Republic of China, and the move to expel Israel from the organization, have emphasized the need for full implementation of the principle of universality. Also, the emergence of an automatic majority among developing nations and the "ministate" issue have given rise to calls for a more realistic and fairer voting system to reflect more accurately political and economic power.

Security Council membership and voting.—The composition of the Security Council should reflect the realities of the power and responsibility in the U.N. But the Security Council must also balance the representation of all member states of the General Assembly. To serve better the latter goal, a new class of semi-permanent, regional seats in the Security Council might be established, to be occupied on a rotating basis by regional members. This could entail converting non-permanent seats into semi-permanent ones, or possibly enlarging the Security Council. Such steps would require amendment of Article 23 of the charter.

The veto has long been regarded as an impediment to the U.N.'s effectiveness—particularly in some crisis situations. Recognizing the virtual impossibility of eliminating the veto altogether, proponents of change in this area have recommended altering the requirement that decisions of a substantive nature require

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[3] Hearing, Subcommittee on International Organizations, Committee on International Relations, U.S. House of Representatives, 94th Cong., p. 10., 1st sess., United States Policy on Review of the United Nations Charter, July 17, 1975, p. 35.

[4] For a more complete discussion of possible revisions, see appendix B, p. 10.

the affirmative votes of nine members provided that no permanent member casts a negative vote. Another step to avoid obstructive use of the veto would be to provide for "special majorities" in certain situations, except in matters involving U.N. enforcement actions.

Also suggested has been the improvement of Security Council practices, through meetings to review implementation of its resolutions, creation of an executive committee to monitor world events on a day-to-day basis, and for the establishment of subsidiary organs for investigation, fact-finding in disputes, and inquiry, good offices, conciliation and mediation.

Other possible improvements have been suggested for the International Court of Justice, the management of human rights issues, arms control—both nuclear and conventional—and the Economic and Social Council.

In testimony before the International Organizations Subcommittee on July 17, 1975, Mr. Hungate noted:

> Outbursts, confrontation by the Third World nations are exercises in flexing their new found "muscles." They are emerging into the international arena and deserve a fair voice, but they cannot *demand* concessions by the major powers who will continue to act in their own best interests. Thus, there is a breakdown in the system; a system that was established 30 years ago under entirely different world conditions . . .
>
> Our task in the United States will be tremendous as the United Nations is rapidly losing the support of our people and our Congress. Many Americans see the United Nations as a poor investment where those we have helped turn against us and where our "enemies" or "potential enemies" are taking over. They do not believe that our country is benefiting through the United Nations or any other form of foreign aid, but rather that we are helping nations to become effective adversaries."

To those who argue against charter review, fearing possible fatal harm to the U.N., Representative Hungate said:

> There are many who believe that a major effort to reform the United Nations could destroy it; that it cannot withstand alteration. I suggest that it may no longer survive unless changes are made—otherwise its economic malnutrition from under-funding will be accelerated. I believe that reform of the United Nations can be accomplished while at the same time inspiring and encouraging the will to utilize the U.N., and accept its role as a useful peacekeeping organization. We do not need another world war to reaffirm our commitment to the goals set forth in the U.N. Charter. We must study the United Nations. its procedures and charter, and develop realistic and productive proposals aimed at restructuring the U.N. into a viable, effective organization in which the American people can put their trust. And with an equitable United Nations structure, nations can better accept its decisions, whether or not in their favor.

The voices of multilaterally oriented organizations have also been heard in support of charter review. Dr. Luther Evans, president of the World Federalists, U.S.A., told the Subcommittee on International Organizations July 1975 hearing:

> . . . we must look at the problem of United Nations Charter review not as the problem of calling another world-wide constitutional convention to give us a new document, but rather as a problem of developing the kind of world public opinion which will support an improvement here and an improvement there . . . as we strengthen the structure in one respect after another until we gradually over the decades build a strong enough conviction in the people of the world that we must continue to strengthen the structure and even perhaps take some large steps in the establishment of a more civilized family of nations.

CON

While favoring measures to improve the effectiveness of the United Nations, opponents of charter review voice concern over the possible consequences of open ended revision. They fear the possible immobili-

zation or even destruction of the U.N. as disagreement over new structures and goals spill over into day-to-day operations.

The Department of State has consistently taken a position against sweeping alteration of the charter. In a letter to Hon. Thomas E. Morgan, chairman of the House Foreign Affairs Committee, dated November 30, 1971, Assistant Secretary of State (Congressional Relations) David M. Abshire noted that charter amendment required an absolute two-thirds vote of the U.N. membership, with ratification by two-thirds of the membership, including the five permanent members of the Security Council. (The only measures which have so far attracted the necessary support have been those for enlarging the Security Council and the Economic and Social Council, both accomplished through the regular amendment process.) Assistant Secretary Abshire then stated:

> To attempt comprehensive review and amendment of the Charter in these circumstances would, in the Department's view, be more likely to lead to serious frustrations than to constructive results. Any fundamental changes that might attract the necessary absolute two-thirds vote in the conference, for example, abolition of the veto or giving the Assembly mandatory powers, would almost certainly fail in the ratification process; while those that might be desirable by the larger powers, some system of weighted voting in the Assembly, for example, could not realistically be expected to obtain the requisite vote for adoption.
>
> The Department recognizes the shortcomings of the United Nations and the need to strengthen it, but believes that these shortcomings derive more from the policies of the member states than from the provisions of the Charter. Rather than initiating actions seeking to convene a Charter Review Conference . . . the Department believes it would be more productive to focus on steps that might be taken to strengthen the United Nations under the present Charter and on such possible amendments under the Charter's regular amendment procedure.

The State Department's position has not changed.[5] In testimony before the International Organizations Subcommittee on July 17, 1975, Robert O. Blake, Deputy Assistant Secretary of State (International Organization Affairs), restated the Department's original position and, noting preparations for the meeting of the ad hoc committee on charter review, stated:

> . . . we intend to make clear our basic position: serious reservations with any attempt at comprehensive review; willingness to consider seriously specific proposals we think might attract the necessary support; and a desire to find agreement on procedures which will lead to constructive agreements rather than hollow confrontations.

Moreover, new developments within the United Nations may bring opportunities for new forms of cooperation and increased U.N. effectiveness not requiring charter review or amendment. A recent study by a group of experts appointed by Secretary General Waldheim offers important changes which do not require charter revision.[6]

The group of experts, charged by the General Assembly with studying ways of making the U.N. system "fully capable of dealing with problems of international economic cooperation in a comprehensive manner", has produced a most useful report with implications for other areas of U.N. activity. Included in the group's recommendations

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[5] For the official U.S. position, as conveyed to the Secretary-General, see appendix C, p. 15. For the official positions of other governments, see U.N. documents A/10113 and A/10113/Add. 1.

[6] For a summary of the group's findings, see appendix D, p. 16. For the complete report, see "A New Structure for Global Economic Cooperation", Report of the Group of Experts on the Structure of the U.N. System, May 1975, U.N. document E/AC.62/9.

for U.N. economic activities—which account for some 85 percent of the organization's budget—are the following:

Creation of the post of Director General for Development and International Economic Co-operation, second in rank only to the Secretary-General, to provide leadership to the central Secretariat and the entire United Nations economic system.

The proposed Director-General would be aided by two Deputy Directors-General. One Deputy would head a single United Nations Development Authority, which would consolidate all special purpose U.N. funds for preinvestment activity, except UNICEF. The second would be in charge of research and policy, and oversee high-level research, policy planning, and analysis for ECOSOC and the entire United Nations economic system.

The Economic and Social Council would be reorganized to permit it to exercise its charter mandate of providing central policy guidance on economic and social affairs. Most of ECOSOC's commissions and subordinate bodies would be abolished and ECOSOC would assume direct responsibility for the work of these groups, avoiding unnecessary duplication of debate at two intergovernmental levels.

A new system of consultative procedures would be established under the General Assembly and ECOSOC to promote agreed solutions on controversial economic questions. Under these procedures, ECOSOC would establish, under full-time chairmen, small negotiating groups on particular issues to work for one or two years defining issues for consideration, structuring the discussion, and searching for solutions. The negotiating groups, consisting of countries principally interested in the subject matter and broadly representative of United Nations membership, would operate on the basis of unanimity. Upon successful completion of their work, the groups would refer their solutions to ECOSOC and the General Assembly for votes. These bodies would then remain free to debate and vote on issues under consideration in negotiating groups, but would take into account the progress of the negotiations when deciding whether to vote on a particular resolution.

The Human Rights Commission would be maintained but its work would be reviewed by the General Assembly, not ECOSOC. Another possibility mentioned in the report but not unanimously agreed to was a charter amendment transforming the Trusteeship Council into a Human Rights Council, thus raising human rights issues to a political forum comparable to the Security Council and ECOSOC.

A small body of independent experts would be created, functioning on a full-time basis to evaluate the implementation of United Nations programs and projects.

Similar approaches, taken on subjects such as pacific settlement of disputes, peacekeeping, or arms control could prove fruitful and avoid the possibly divisive problems of charter review.

Finally, opponents of comprehensive charter review note that a mechanism for charter review in addition to articles 108 and 109 of the charter has been available since 1955, when the General Assembly established the Committee on Arrangements of a Conference for the Purpose of Reviewing the Charter. That committee ceased regular meetings in 1967, but was kept alive on paper, in the event any member state might request its action. But no meetings have been sought. And even as the ad hoc committee began its work in late July 1975, only 19 nations had filed their comments on the question of charter review, with many opposed to the idea. Obviously, before comprehensive review can begin, there must be a broadly felt need which has yet to appear.

Conclusions and Recommendations

The subcommittee supports the basic position of the Department of State with regard to United Nations charter review. Proposals for

amending the charter should be considered under the procedure of article 108 which permits an amendment to be considered on a case-by-case basis. Also, to the greatest degree possible, changes in the operations of the U.N. should be sought through procedural means instead of the more lengthy process of amendment and ratification.

The subcommittee recognizes the shortcomings and frustrations of the present United Nations system, and agrees with the need for change. But the international consensus essential for productive charter review—both generally and on specific issues—has not evolved. Until such agreement develops, an attempt at comprehensive charter review would be risky and unwieldy.

Toward the goal of increasing the U.N.'s overall performance and capability, the subcommittee recommends the following general policies for the United States in the United Nations, encompassing both specific charter amendments and reforms which do not require charter revision:

The United States should add to the momentum of goodwill garnered in the recent Special Session and press forward the proposals contained in the Group of Experts' report. Too often reports and suggestions of this kind languish in bureaucratic limbo and are never acted upon. At this particular point in the U.N.'s development, overlooking the value of the experts' proposals could contribute to the demise of the United Nations as a means of international cooperation.

The United States should press as well for reforms similar to those suggested for economic activity in other critical areas such as pacific settlement of disputes, peacekeeping, and arms control.

To further increase the effectiveness of the United Nations system, the U.S. should lend its support and even initiative to efforts aimed at greater policy planning, research and analysis of programs and projects in all areas of U.N. activity.

As the world's political, military, and economic character undergoes drastic changes, and as new and massive challenges arise in all areas of human activity, it is important that international institutions keep pace. Yet it is equally vital that no action be taken to undermine the one forum in which meaningful advances may be made toward global cooperation and peace.

APPENDIXES

APPENDIX A

Provisions of the U.N. Charter Pertaining to Charter Amendment and Review

Chapter XVIII—Amendments

ARTICLE 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified 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.

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present 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 seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified 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.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be 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.

APPENDIX B

Proposals for United Nations Reform, The World Association World Federalists, July 1974

The United Nations, as a political structure, is evolving with the passage of time and by the light of its experience in dealing with the problems of human society. Some substantial possibilities for further evolution, moreover, exist in the present Charter. History and experience show the need for continuing reform of the United Nations to meet the needs of a shrinking, dangerous and rapidly changing world.

Since 1945 the advent of nuclear power, the spreading of armaments, numerous wars, the wasting of resources, a deteriorating environment, rising human expectations in collision with poverty and over-population, a sharp increase in United Nations membership and major shifts in international relationships, and the demonstrated shortcomings of the United Nations in meeting these and other global problems and in the creation of world law, combine to show the urgency of reform and strengthening of the United Nations.

Proposals for the development of the United Nations must have the guiding purpose of promoting the well-being and dignity of the human person.

The longer term aims of the suggestions we offer are :

1. to strenghten the capacity of the United Nations as a means of international decision-making, as a system of justice and as a source of enforceable law, so that it may replace a system based on the threat and destructive use of national power ;

2. to re-enforce human rights and to enable the United Nations to meet needs which nation-states or lower levels of government cannot effectively serve, and

3. to redirect the use of human and natural resources from war and arms into an improvement of the quality of life.

The World Association of World Federalists suggests to the Member Nations of the United Nations some important areas for reform of its structure and operation. We recommend such proposals as these to the Member Nations as a response to the request of the Secretary-General, acting for the General Assembly, that Member Nations present their views on review of the United Nations Charter at the 27th and 29th General Assemblies.

We believe that the challenges of our present world environment demand a quantum jump toward world order and that world leadership must move quickly to prepare an adequate response. We urge the 29th General Assembly to establish a United Nations committee for the orderly consideration of suggestions and proposals which have been made and will be made by Member Nations and intergovernmental and non-governmental organizations, with a view to the adoption at the earliest practicable date of those measures to strengthen the United Nations which gain general support.

Some of the recommended proposals would require, at least in part, changes in the present wording of the United Nations Charter. For other proposals, Charter changes would be preferred, but are not absolutely essential. Finally, we offer several suggestions concerning the development of the United Nations system which do not involve the Charter.

I. PROPOSALS REQUIRING CHARTER CHANGE

1. Membership.—The function of the United Nations is to represent the peoples of humanity. Full implementation of the principle of universal membership will greatly strengthen the United Nations. The seating of the Peoples' Republic of China is a major advance toward the principle of universality. This development provides a basis from which to press forward for the admission of the other States not now Members of the United Nations. Amendment of the Charter is long overdue to remove from its language all reference to the "enemy states" of World War II.

2. Peaceful Settlement of Disputes.—The provisions of the Charter for dealing with peaceful settlement of disputes need improvement. Experience indicates that the existing wording is too imprecise and too permissive, often leading to delay and the failure to deal with disputes at the optimum time for their settlement. There has been a tendency, moreover, for the United Nations to immobilize disputes, rather than to settle them.

The redrafting of Article 33 is therefore advisable in order to provide a specific mode of progression, when necessary, from two-party negotiations in increasingly high levels of third-party involvement in stubborn disputes. Such provisions would commit the parties to a dispute, in advance, to accept arbitration or judicial settlement, in the event that negotiation, inquiry, mediation or conciliation may prove insufficient.

While, under Article 29, the Security Council may establish subsidiary organs as it deems them necessary for the performance of its functions, there is in fact no permanent standing machinery to function in pacific settlement of political disputes. Therefore the wording of Article 37 should be amended to include provisions for a standing Conciliation and Arbitration Commission. Such a Commission should consist of a small group of persons universally respected, such as past Presidents of the General Assembly; the Commission should determine its own procedures and methods, and its work should normally be confidential.

3. The International Court of Justice.—It is desirable to relate the Court much more closely and effectively to the maintenance of international peace and security. No single act would be of greater aid to this aim than for states to declare that they recognize as compulsory the jurisdiction of the Court in all legal disputes. In addition, the following amendments, among others, are worth consideration in reviewing the Charter and the Statutes of the International Court of Justice:

(a) There should be a provision for referring automatically to the International Court of Justice for judicial settlement the justiciable legal elements of any dispute which has proved intractable under a revised Article 33 on Peaceful Settlement.

(b) Broader provisions for the use of the Court for advisory opinions are necessary. At present the Security Council, the General Assembly, and any United Nations organ or agency so authorized by the Assembly may request an opinion. In addition, regional organizations, individual States, and the Secretary-General should have such rights before the Court.

(c) The United Nations as a legal entity should also have authorization to bring cases before the Court.

(d) There should be provisions to establish international regional Courts under the supervision of the International Court of Justice, and for the right of litigants to appeal from a regional court to the International Court of Justice.

4. Human Rights.—At the present time the United Nations deals with most human rights matters at as many as five different stages: in a sub-committee or ad hoc committee or by a special rapporteur, then in the Commission on Human Rights, in ECOSOC, next in the Third Committee, and in the Plenary of the General Assembly. The United Nations should create a new human Rights Council to integrate these steps and to report directly to the General Assembly. Such a Council would be on the level of the Economic and Social Council, and would relieve ECOSOC of its human rights responsibilities, thus freeing it to concentrate on economic and social developments.

It is desirable that the United Nations should implement the proposal for creating a new post of High Commissioner for Human Rights. The establishment of a World Court of Human Rights to supplement existing and planned regional Courts of Human Rights deserves study. Such a World Court of Human Rights would have responsibiliites analogous to the European Court of Human Rights.

5. Strengthening the ECOSOC.—The United Nations Economic and Social Council needs the means to fulfill the functions for which it is responsible. Moreover, the authorization in the Charter for ECOSOC to "coordinate the activities of the Specialized Agencies through consultation" is inadequate. We may well expect that the present enlarged membership of ECOSOC will strengthen its ability to make broadly based decisions of policy. It is important that ECOSOC reflect the kind of concerns about the terms of trade, commodity price levels and related matters which are central interests of the United Nations Conference on Trade and Development.

For truly effective co-ordination of the economic and social work of the United Nations system, ECOSOC should have the authority to review all questions relating to economic and social matters before their subcommission to the General Assembly and to pass on the policies, plans and budgets of the concerned Specialized Agencies before their adoption by those bodies. Authority well beyond that specified in the Charter is necessary to enable the Economic and Social Council to carry out it job effectively.

II. PROPOSALS FOR WHICH CHARTER CHANGE IS DESIRABLE

6. Peacekeeping.—The Charter has spelled out the procedure for taking enforcement action against aggressors in Chapter VII. These provisions should, of course, be implemented. In addition, however the framers of the Charter did not adequately foresee the evolution of international peacekeeping by interposition in order to arrest conflict and prevent violence without prejudice to the matter at issue. Consequently a new paragraph under Article 40 is desirable to spell out the generally agreed principles of observation and of peacekeeping by interposition. A draft of this new section should include points such as the following:

(a) The Security Council may, whenever it deems it necessary to prevent aggravation of a situation, establish United Nations Peace Observation Teams, and a United Nations Interposition Force to arrest or prevent violence, and to permit peaceful settlement as delineated in Chapter VI.

(b) The establishment, deployment and maintenance of such teams and forces would be in accordance with agreed guidelines to be annexed when developed.

(c) All Member Nations able and desiring to participate shall designate especially trained and instantly-ready observer personnel and armed contingents or equivalent support for the United Nations Observer Teams and Interposition Forces.

(d) The Security Council may at any time decide to authorize direct United Nations recruitment and training of such personnel, initially for a United Nations "fire brigade" force of not more than two thousand in number.

(e) All States shall accept United Nations Peace Observation Teams at any trouble spot and on both sides of contested areas or borders when required by the Security Council, the General Asembly or the Secretary General.

(f) United Nations peacekeeping operations by interposition need not, if international security requires, be confined to "consent type" missions in which states in potential or actual armed conflict assent to their use.

(g) Removal or recall of UNIForce contingents shall require a decision of the Security Council.

(h) The regular budget of the United Nations shall provide for financing of United Nations observer teams and UNIForce contingents together with a special Peacekeeping Fund held in reserve to assure rapid response in the event of threats to the peace.

(i) If the Security Council, which under the Charter has primary responsibility for maintenance of international peace and security, fails to act in establishing an observer team or an Interposition Force in any crisis situation, the General Assembly shall have the authority to act.

In order to assure a nucleus of individuals trained in control of violence, in arbitration and mediation, and to provide personnel specializing in the solution of problems of conflict the United Nations should establish, as one division of the United Nations University, an Academy for peacekeeping and related matters.

7. Security Council Membership.—The composition of the Security Council should reflect the realities of power and responsibility in the United Nations balancing the representation of all Member Nations in the General Assembly. Regarding the election of non-Permanent Members, the Charter says, "due regard is to be given to the contribution of Members to the maintenance of international peace and security and to the other purposes of the Organization." This principle could be applied informally by the more frequent election of those States most able to contribute to the purposes of the Organization. To facilitate this, the prohibition of the Charter against immediate re-election should be removed. However, such informal arrangements as these might well prove insufficient.

Among possible means for such purposes would be the creation, formally or informally, of a new class of semi-permanent Members by adding a seat for each world region which the nations of such a region most able to contribute to the purposes of the United Nations would occupy in rotation or according to the wishes of the regional group. In order that Council membership may better

reflect world realities, a provision of this nature might explicitly change one-half of the existing non-Permanent seats to semi-permanent seats, or might add new semi-permanent seats and thus modestly enlarge the membership of the Council to 21. Either of these means would enable the creation of semi-permanent seats for each world region. Such a step would require amendment of Article 23 of the Charter.

8. Security Council Voting.—The Charter Provision that action in substantive matters shall require the affirmative votes of all the Permanent Members should be changed or modified, while still recognizing that primary responsibility for peace and security rests with the Permanent Members. The unanimity rule has, in fact, already undergone modification in that the Security Council no longer regards the abstention or "non-participation" of a Permanent Member as a "veto". Simply to bring the Charter into line with this practice requires a change of the language prescribing that decisions on substantive matters shall require the affirmative votes of nine Members provided that no Permanent Member casts a negative vote.

A further step forward would be to limit the use of the veto, for instance by provision for special majorities in certain situations, except in matters involving enforcement action by the United Nations. This could take place initially by a voluntary agreement for a specified number of years, after which the principle could become a part of the Charter. Experience indicates the desirability of retaining the unanimity requirement for enforcement action as envisaged under Articles 42–54. However, unanimity of the Permanent Members should not be a requirement for peacekeeping by interposition, nor for any Security Council resolution other than on enforcement. The "veto" should not be extended to any new Members, permanent or otherwise; or, in any case, there should be no increase in the present number of vetoes.

Recent reforms of the procedures of the General Assembly offer an example for possible improvements of the practices of the Security Council. Among such possibilities are meetings of the Council to review implementation of its resolutions, including periodic meetings at the ministerial level implementing the provision of Article 28, Paragraph 2 of the present Charter for this purpose; the creation of an Executive Committee for day-to-day observation of world events; and the establishment of subsidiary organs for investigation, for fact-finding in disputes, and for purposes of inquiry, good offices, conciliation and mediation.

9. General Assembly Voting and Representation.—The one-nation-one-vote principle in the General Assembly needs re-examination in the course of any major review of the structure of the United Nations. Several proposals are available which could bring General Assembly representation and voting more into line with world political reality and with the principles of democracy and justice.

10. United Nations Finance.—United Nations revenue is grossly inadequate for the tasks at hand, and is a tragically small sum compared to the more than 200 billion dollars which the world's nations spend annually on arms.

To supplement contributions from Member States it will be useful to investigate other sources of revenue. Such sources might include revenues from the exploitation of the sea-bed and a limited tax or license fee in relation to space communications and other commercial uses of outer space.

The idea is worth consideration that the United Nations should have the power to offer certain types of services to international corporations, and to grant them charters, and to impose limited taxes.

A special United Nations fund should exist in each country to enable individuals, corporations and foundations to contribute to humanitarian and educational activities of the United Nations.

11. An International Disarmament Agency.—The United Nations has long recognized that the thorough implementation of General and Complete Disarmament will require the establishment of an International Disarmament Organization. Both the United States and the Union of Soviet Socialist Republics draft treaties for General and Complete Disarmament, make provision for an International Disarmament Organization. Any review of the United Nations structure should examine the character of such an International Disarmament Organization and its relationship with the other organs of the United Nations. Since disarmament is a Charter obligation, we believe that all disarmament negotiations should take place under the auspices of the United Nations.

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III. PROPOSALS NOT REQUIRING CHARTER CHANGE

12. The United Nations Development Program.—The strengthening and expansion of the United Nations Development Program as a result of recent studies is welcome. The enhanced potential of UNDP as an agent for economic and social development programs should be an encouragement for industrially developed States to channel larger contributions and a greater proportion of their economic assistance through UNDP. The important advantages of multilateral as opposed to bilateral aid have become more apparent both to donors and to recipients. In connection with achievement of the goals of the Second Development Decade, States should substantially increase their contributions to the UNDP.

13. A World Environmental Agency.—The United Nations Environment Program should eventually become a global authority with the responsibility for dealing effectively with the problems of the environment, and in particular should become the co-ordinating and expediting body for international standards and guidelines for control of the contamination of the environment.

14. An Ocean Space Regime.—For the protection of the environment, the marine food chain, rights of navigation, the rational exploration and exploitation of the sea-bed, and peaceful relations between all users of the world's waters, the United Nations should establish a Regime to control the use of the sea-bed and the waters beyond the limits of national jurisdiction both as regards their mineral and living resources. The maximum possible area of the sea-bed should be reserved to international jurisdiction.

The United Nations should ensure the development and protection of the oceans as the common heritage of mankind. A substantial portion of the revenues from the exploitation of the resources of the sea-bed should accrue to budgetary and economic development needs of the United Nations. For these purposes it is necessary to specify a form of organization with effective jurisdiction, and to specify its relationship to the other organs of the United Nations system.

15. Relief in International Disasters.—In order to supplement and strengthen the action of the United Nations establishing the post of Disaster Relief Co-ordinator, and in order to provide a prompt international response in situations arising from catastrophes both natural and man-caused, we propose setting up under the auspices of the United Nations a Disaster Relief Agency, equipped with materiel and personnel means necessary for rapid and efficient intervention in disaster situations, and for the purpose of co-ordinating the efforts of relevant United Nations agencies, national governments and voluntary groups.

APPENDIX C

Position of the United States of America on the Question of United Nations Charter Review, May 23, 1975

The United States reaffirms its basic position concerning review of the Charter set forth in its note of 14 September 1972 (A/8746/Add. 1). We are convinced that the most urgent need of the international community is for Member States to strengthen their resolve to bring national policies and actions more into line with their obligations under the Charter. Observance of these obligations is essential if the United Nations is to fulfil the purposes laid down by the Charter of maintaining international peace and security, developing friendly relations based on equal rights and self-determination, international cooperation in resolving economic, social, cultural and humanitarian problems, and harmonizing national actions to realize these shared goals.

The United States believes that the Charter constitutes for Member States the principal bond creating a world-wide community of nations despite the existence of widely differing views, and philosophies of government. Consequently, any serious effort to reconsider or revise the Charter must be looked at with great care lest the basis for the sometimes fragile ties among Member States be weakened. We see no evidence of agreement now among the United Nations membership on even the broad objectives of over-all review.

The United States is not in principle opposed to changes in the Charter but considers that such changes can wisely be approached only on a case-by-case basis. Only when there is a reasonable prospect for the development of necessary agreement on the specific amendment concerned should such efforts be pursued. This was the case some time ago when we supported amendments involving the appropriate enlargement of the Security Council and the Economic and Social Council. If evidence emerges that agreement is possible on other specific changes that should be made in the Charter, the United States will explore them seriously.

We believe that the United Nations overriding need at present is to function as a "centre for harmonizing the actions of nations" as stipulated by the Charter itself. We believe that the rededication to this objective and the taking of practical steps to encourage respect for both assenting and dissenting views in the decision-making process is the most important contribution that could be made to move the United Nations toward the ideal of international cooperation that the Charter was designed to attain.

APPENDIX D

Summary of Findings of the Group of Experts on the Structure of the United Nations System for Economic Cooperation, May 20, 1975

Press Release

United Nations, New York—The Group of high-level Experts appointed by Secretary-General Kurt Waldheim to propose structural changes in the United Nations economic system has completed its work with a unanimous report signed by all 25 members. The report entitled "A New United Nations Structure for Global Economic Co-operation", was submitted to Secretary-General Waldheim at 4:00 p.m. on May 20 and released to the press at noon on May 21.

The report proposes a number of major changes in the economic activities of the United Nations which account for 85% of the Organization's budget:

The post of Director-General for Development and International Economic Co-operation would be created, second in rank only to that of the Secretary-General himself, to provide leadership to the central Secretariat and the entire United Nations economic system. The Director-General would be a national of a developing country so long as the Secretary-General was a national from a developed country.

All special purpose United Nations funds for preinvestment activity (except UNICEF) would be consolidated into a single United Nations Development Authority, headed by an Administrator who would be one of two Deputies to the Director-General. The separate identity of the funds would be maintained to allow donors to continue earmarking for special purposes like population, environment, narcotics, etc. The Administrator of the UNDA would be a national from a developed country. He would be responsible to an Operations Board of between 18 and 27 members equitably balanced between net donors and net recipient countries. The Operations Board would report to ECOSOC which would conduct a general policy review of UNDA activities once a year.

The Department of Economic and Social Affairs would be reorganized under a second Deputy to the Director-General to be known as the Deputy Director-General for Research and Policy so that it could do high-level research, policy planning, and analysis for ECOSOC and the entire United Nations system. To assist in this effort, a small joint research, planning and programming staff would be established under the Director-General composed of outstanding professionals seconded from the various organizations of the United Nations system and from the outside. The Deputy Director-General for Research and Policy would be a national from a developing country.

An Advisory Committee on Economic Co-operation and Development would be created, which would be chaired by the Director-General and composed of the heads of the major specialized agencies and the regional economic commissions to provide an integrated system-wide approach to economic problems. The Administrative Committee on Co-ordination would continue to perform normal co-ordination functions.

The Economic and Social Council would be reorganized to permit it to exercise its Charter mandate of providing central policy guidance on economic and social affairs. Most of ECOSOC's commissions and subordinate bodies would be abolished and ECOSOC would assume direct responsibility for the work of these groups, thus avoiding unnecessary duplication of debate at two intergovernmental levels. ECOSOC would adopt a biennial calendar, beginning in January of the first year with an organizational session and proceeding to specialized sessions on natural resources, environment, population, social problems, etc., with appropriate senior officials from capitals. ECOSOC's calendar would also include an annual one week ministerial session, possibly at the end of June, focusing on current world economic questions, which would submit a policy statement to the General Assembly for its consideration. ECOSOC would also

hold each July two 2-week sessions devoted to: (a) a review, in alternate years, of the programme budgets and medium-term plans, respectively, of the entire United Nations system, and (b) a general review of operational activities, including those of the United Nations Development Authority.

The Human Rights Commission would be maintained but its work would be reviewed by the General Assembly, not ECOSOC. Another possibility mentioned in the report but not unanimously agreed to was to adopt a Charter amendment transforming the Trusteeship Council into a Human Rights Council, thus raising human rights issues to a political level comparable to that of the Security Council and ECOSOC.

The Second Committee of the General Assembly would be renamed the Committee on Development and International Economic Co-operation and certain social development items now in the Third Committee would be transferred to it. The Third Committee would be renamed Committee on Social Problems, Human Rights and Humanitarian Activities. The Second Committee agenda would be organized more realistically around meaningful clusters of issues and ECOSOC would be given a new role in preparing Second Committee work. In place of the increasing resort to *ad hoc* world conferences, some with fixed periodicity, the General Assembly would, after careful preparation, hold special sessions itself.

UNCTAD, including its Conference, Trade Board, secretariat and other organs, would gradually phase out, subject to the establishment of a comprehensive new International Trade Organization. Similarly, its non-trade functions would be assumed by the General Assembly, ECOSOC and the new central Secretariat.

The Governing Council of the United Nations Environment Programme would be abolished. Its policy functions would be assumed by ECOSOC and its role in administering the Environment Fund would be taken over by the new Operations Board of the UNDA.

A new system of consultative procedures would be established under the General Assembly and ECOSOC to promote agreed solutions on controversial economic questions. Under these procedures, ECOSOC would establish small negotiating groups on particular issues to work for one to two years in an attempt to find agreement under a full-time Chairman, with the responsibility for defining issues for consideration, structuring the discussion, and working with the parties in search of an agreed solution. The negotiating groups, consisting of countries principally interested in the subject matter and broadly representative of United Nations membership, would operate on the basis of unanimity. Upon successful completion of their work, their agreed solutions could then be voted by ECOSOC and the General Assembly, which would remain free to debate and vote on issues under consideration in negotiating groups. However, the General Assembly and ECOSOC would take into account the progress of the negotiations when deciding whether to vote on a particular resolution.

The United Nations agencies would move toward a unified personnel system, including a common system of salaries, grading, conditions of service and recruitment, with additional powers to the International Civil Service Commission.

Member States and those responsible for managing the International Civil Service would rededicate themselves to Charter requirements of efficiency, competence and integrity and various reforms in personnel recruitment, training and promotion would take place in pursuit of this end.

Major reforms would be introduced at the interagency, intergovernmental and secretariat levels toward more rational system-wide programming and budgeting, including strengthening of the Committee for Programme and Co-ordination and steps by United Nations and specialized agencies to synchronize budget cycles, exchange information, and adopt comparable programme-budget presentations.

A small body of independent experts should be created, functioning on a full-time basis to evaluate the implementation of United Nations programmes and projects.

The specialized agencies should be gradually redirected toward their original research and standard-setting functions and UNDA should have greater freedom to choose alternative instruments for the implementation of projects, including government agencies, universities, private contractors and regional commissions.

In separate chapters on institutional issues in particular sectors, the report identifies a large number of issues which will require consideration in appropriate forums and makes the following specific recommendations:

(a) GATT and the United Nations should enter into a mutually satisfactory agreement providing for a formal relationship including exchange of information and clearer administrative collaboration;

(b) as a long-term objective there should be an evolution toward the creation of an International Trade Organization to deal with trade issues in a comprehensive manner, but no structural change in the field of trade should be allowed to interefere with the multilateral trade negotiations;

(c) the distribution of voting rights under the weighted voting system in the IMF and IBRD should be revised to reflect the new balance of economic power and the legitimate interest of developing countries in a greater voice in the operations of those institutions; and

(d) the proposed "Third Window" in the World Bank should be established under which funds could be borrowed from OPEC countries at market rates of interest and re-lent to developing countries at concessional rates, with the help of an interest subsidy subscribed by developed and OPEC countries.

The proposals for restructuring should be implemented in stages over a five year period to assure at every stage that the interests of all countries are being served. A Committee on the Structures of the United Nations system should be established to follow-up on the restructuring proposals and provide advisory opinions on other institutional proposals to ensure their compatibility with the agreed design. Two complex "insurance policies" are included in the report to reassure developed and developing countries, respectively, that their interests will not be sacrificed in implementing the above proposals concerning UNCTAD and the UNDA.

The Director-General for Development and Interational Economic Co-operation would be elected for a five year term at the same time as the Secretary-General was elected for his five year term in the Fall of 1976. However, the Group recommends that an interim appointment be made for the Director-General's post by the General Assembly in 1975.

The letter of transmittal to the Secretary-General from the Group of Experts explains that the experts have signed the report in their individual capacities and that their signatures do not commit the governments of their respective countries. At the same time, the letter states that the experts have unanimously approved the report and its recommendations, even though not necessarily endorsing all the reasoning or the points of view expressed.

In their Introduction to the report the Group of Experts declared:

In its 30th anniversary year the United Nations has reached a turning point. In one direction lies the prospects of new capacity to cope with the central issues facing mankind in the decisive last quarter of the twentieth century. In the other direction lies the danger of a decline in the effectiveness of the United Nations. Which direction the Organization takes will be significantly influenced by the decisions on policy and structural questions which its Member States take in the months ahead.

The proposals in this report are designed to assist in rectifying certain weaknesses in the United Nations structure which we sought to identify and which we believe are preventing it from becoming a more effective instrument for the promotion of international economic and social co-operation and development.

The Chairman of the Group of Experts was H.E. Mr. Al Noor KASSUM, (United Republic of Tanzania), Minister of Finance and Administration to the East African Community.

The Rapporteur was Mr. Richard N. GARDNER (USA), Professor of Law and International Organization of Columbia University.

The other members were:

Abdel-Hamid ABDEL-GHANI (Egypt), Ambassador, Ministry of Foreign Affairs.

Adebayo ADEDEJI (Nigeria), Federal Commissioner for Economic Development and construction.

Abdelaziz BENNANI (Morocco), Ambassador of Morocco to Poland.

Wilmot BLYDEN III (Sierra Leone), Ambassador, Permanent Representative to the United Nations.

Sérgio CORREA DA COSTA (Brazil), Ambassador, Permanent Representative to the United Nations.

Juan M. FIGUERERO (Argentina), Ambassador, Permanent Representative to the United Nations.

Peter HANSEN (Denmark), Senior Research Fellow, University of Aarhus.

Paul-Marc HENRY (France), President of the Development Centre, Organization for Economic Co-operation and Development.

Axel HERBST (Federal Republic of Germany), Ambassador, Permanent Representative to the United Nations, Geneva.

Lal JAYAWARDENA (Sri Lanka), Additional Secretary, Ministry of Planning and Economic Affairs.
N. KRISHMAN (India), Joint Secretary, Head of the United Nations Division, Ministry of External Affairs.
Peko KANA KWALA (Zaire), Chief of Division, Department of Economics.
Evan T. LUARD (United Kingdom), Member of Parliament, Fellow of St. Anthony's College, Oxford.
Akhtar HAHMOOD (Pakistan), Additional Secretary to the Government of Pakistan, Managing Director, Pakistan Tourism Development Committee.
Josè Carlos MARIATEGUI (Peru), Ambassador, Under-Secretary of Planning, Ministry of Foreign Affairs.
Jan MEIJER (Netherlands), Ambassador, Special Adviser to the Minister of Foreign Affairs, Ministry of Foreign Affairs.
Donald, O. MILLS (Jamaica), Ambassador, Permanent Representative to the United Nations.
A. A. MOLCHANOV (U.S.S.R.), Minister Extraordinary and Plenipotentiary, Department of International Economic Organization, Ministry of Foreign Affairs.
Saburo OKITA (Japan), President, Overseas Economic Co-operation Fund of Japan.
Manuel PEREZ GUERRERO (Venezuela), Minister of State for International Economic Affairs.
Majid RAHNEMA (Iran), Senior Adviser to the Imperial Organization for Social Services for Iran.
Ljubomir SEKULIC (Federal Socialist Republic of Yugoslavia), Deputy Head of the Department for International Organizations, Federal Secretariat for Foreign Affairs.
Evzen ZAPOTOCKY (Czechoslovakia), Dean of the Faculty of Commerce, University of Economics, Prague.
Secreteary: Üner KIRDAR. Senior Inter-Agency Affairs Officer.

CHART I

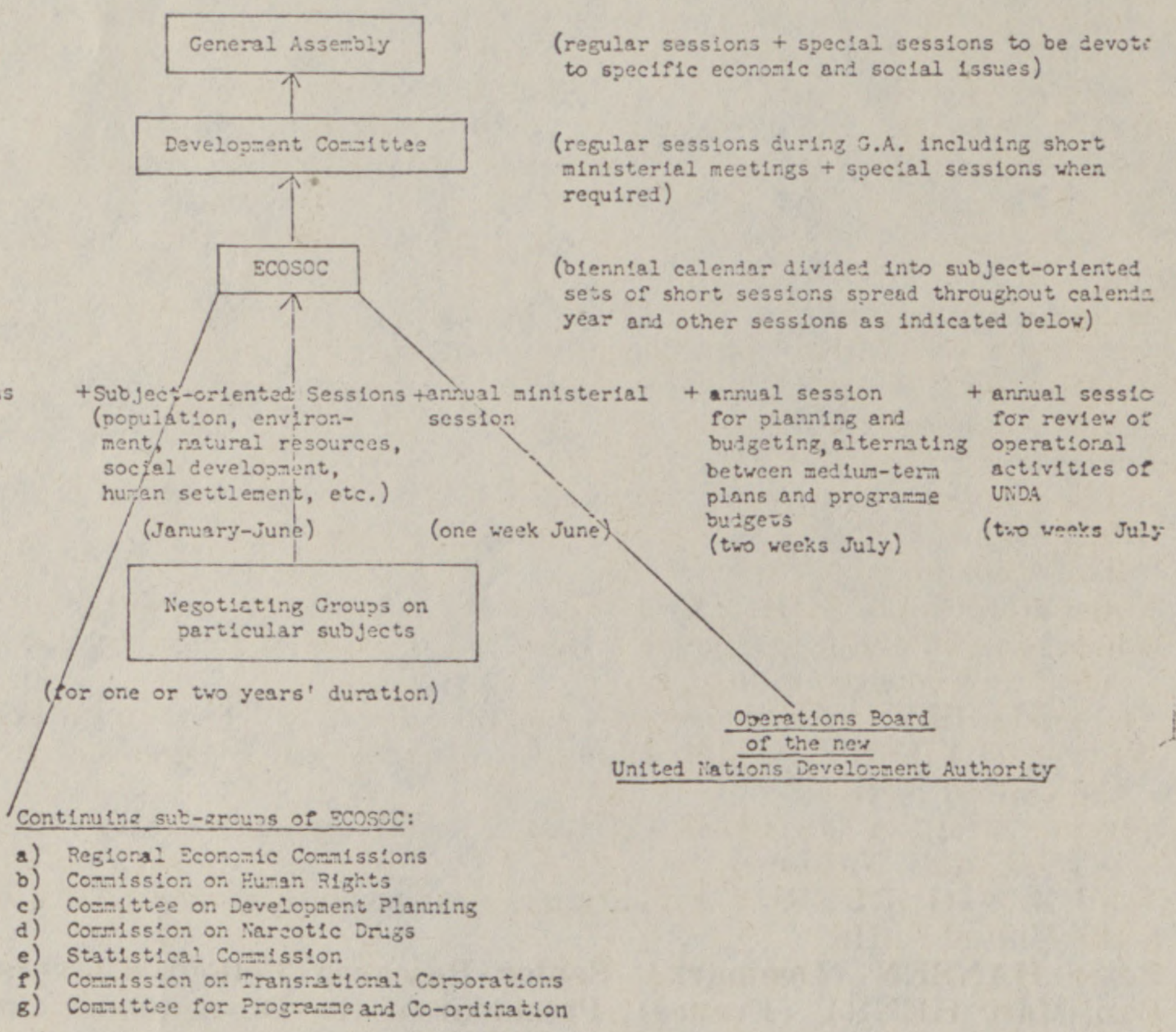

CHART II

New UN Secretariat Structure for Global Economic Co-operation

