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Prof. P. E. O. Oguno Ph.D
Henry Obinna Leonard Nzute Esq.



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Prof. P. E. O. Oguno Ph.D
Faculty of Law
Anambra State University
Anambra State Nigeria (Now Chukwuemeka Odumegwu Ojukwu University)
Email: poguno@yahoo.com
08034041556

Henry Obinna Leonard Nzute Esq.
Faculty of Law
Chukwuemeka Odumegwu Ojukwu University
Email: henrylol@yahoo.com

ABSTRACT

International organizations, despite their widely diverging objectives, powers, fields of activity and number of member states, share all kinds of problems. The rules for dealing with these problems are often times termed “similar”. There is no gain saying that the world, being a global village, depends for her future on international order. Our destiny is increasingly influenced by the activities – or lack thereof – of international organizations. These activities affect our daily life more than we often realize. The growing significance of international organizations makes it necessary to analyze their law and practice, and most especially representation of interests. There are countless Organizations that make up an assemblage of the International Organizations. Each organization has its own unique law and practice, designed for the realization of its objectives. Consequent to the Second World War, various international organizations sprung up almost automatically as soon as an international problem arose and the need for foreign countries, with their respective and divergent levels of wielding economic might, to cooperate to bring a long or lasting solution to the said identified problem. These problems ranged from natural/man-made disasters, nuclear accidents, Hunger, epidemics/pandemics, spread of radiation, civil war, modern weaponry, international terrorism and other security threat etc. In dealing with these problems however, it is expected that the laws and practices of these and other international organizations are frequently taken into account. The challenge however, being that these institutions as have been formed, do not have the same level of Economic Sagacity and wield power, especially with their respective contributions to the finding of lasting solutions to these problems. This presentation further intends to peer into and reconcile the wish of states to remain independent with the reality of a growing list of trans-boundary problems. It further sets to look at whether the creation and functioning of the United Nations Organization on the international stage did not relegate sovereign states to the wings, thereby leaving an aura that states remain the leading actors in international relations to the extent of their economic prowess and contribution.

Keywords: *Equitable Representation, Economic Interests, United Nations (UN), International Organization and International Labour Organization (ILO).*

1.00 Introduction

“Over the past 70 years, the world had undergone profound change with increasingly complex and numerous peace, security and economic threats requiring a Council of the United Nations, capable of fulfilling its mandate in line with the United Nations Charter.” These were the words of the President of the General Assembly, Mogens Lykketoft, as he opened the debate in the 2015 seventieth plenary session of the United Nations General Assembly Annual Debate on Security Council Reform, of which Over 60 delegates who spanned the globe in geographic origins, and who represented a comprehensive range of regional and issue groupings, participated.

Being an international organization formed in 1945 to increase political and economic cooperation among its member countries, the United Nations, (hereinafter referred to as the UN) is made up of five principal organs: the UN General Assembly, the UN Secretariat, the International Court of Justice, the UN Security Council, and the UN Economic and Social Council. A sixth, the UN Trusteeship Council, has been inactive since 1994.

The United Nations General Assembly is the UN's main deliberative body, where all members have “equal representation”. It has its headquarters in New York City, United States of America, and its responsibilities include setting the UN's budget, appointing rotating members to the Security Council, and passing non-binding resolutions that express the opinions of the international community.

The United Nations Secretariat is the executive wing of the UN, charged with implementing policies set by its deliberative bodies. Its head, the Secretary-General, is the UN's top official. The Secretariat, which is based in New York City, includes the Department of Peacekeeping Operations, which dispatches UN soldiers—known as “blue helmets”—on missions authorized by the Security Council. The International Court of Justice is based in The Hague and has two main functions: to settle disputes submitted by member states according to international law and to issue advisory opinions on legal questions submitted by UN agencies.

The U.S., Russia, and China have not joined the court, so their citizens are not subject to its decisions unless the Security Council votes to make them. Since all three countries have veto power on the Security Council, that is all but impossible. Most of the court's high-profile cases have focused on African heads of state, leading several African states to pull out of its jurisdiction or threaten to do so.

The UN Security Council is charged with maintaining international security. It authorizes peacekeeping missions, accepts new UN members, and approves changes to the UN charter. The Security Council's structure allows a few powerful member states to dominate the UN: Russia, the UK, France, China, and the U.S. hold permanent seats on the council and enjoy veto power. The Security Council's other 10 seats rotate on a staggered two-year schedule; as of 2019 they are occupied by Belgium, Côte d'Ivoire,

Dominican Republic, Equatorial Guinea, Germany, Indonesia, Kuwait, Peru, Poland, and South Africa.

The UN Economic and Social Council coordinate the activities of the UN's 15 specialized agencies. These include the Food and Agriculture Organization, which leads efforts to improve food security; the International Atomic Energy Agency, which attempts to ensure compliance with nuclear non-proliferation agreements; the International Labour Organization, which promotes workers' interests; and the World Bank and the International Monetary Fund, two of the Bretton Woods institutions, which were founded to shore up international financial stability.

The promotion of international cooperation to improve the welfare of all nations is another major objective of the United Nations. This field of international cooperation through the United Nations and various other international organizations affiliated with it include many areas such as economic and social development, improvement of the human environment, development and utilization of outer space, the oceans and atomic energy. The importance of the United Nations' functions to strengthen peace has increased because problems handled by the United Nations have come to cover practically all the activities of mankind. Many diversified problems brought before the United Nations bear fruit through deliberations in the form of a resolution, which is something like the greatest common measure of the international community. Resolutions have the nature of a recommendation, except those adopted by the Security Council, and countries concerned are expected to positively implement them. The process of adjusting the interests of various countries by peaceful means prevents a dispute. The prevention of a dispute is all the more important in the world today where the United Nations' trouble-shooting function is not effective enough to cope with a dispute that has already started, and it has made substantial contributions, although indirectly, to the strengthening of peace. This is why the function of promoting international cooperation has become an increasingly important function of the United Nations.

There is no need stressing the fact that the United Nations' main mission is the maintenance of international peace and security. Although there are limits to the role directly played by the United Nations in maintaining peace at present, its indirect contributions to world peace are by no means small, as mentioned above. Moreover, although the maintenance and strengthening of world peace still depends basically on the power politics of the major powers, centering on the nuclear powers, it cannot be overlooked that the existence of the United Nations expands the scope of options for the big powers and consequently contributes to peace. After all, the strengthening of the functions of the United Nations, which is the only global peace-keeping organization, coincides with most member country's national interests. On the other hand, voices demanding contributions to the United Nations by these countries commensurate with their national powers and have increased because it has enhanced their position in the international community with its remarkable post-war economic growth as the lever

When the United Nations is viewed as an arena for multi-lateral diplomacy, the following points can be mentioned.

First, the supplementary nature of multilateral diplomacy in relation to traditional bilateral diplomacy and also the importance of the United Nations in multilateral diplomacy. Problems that could be dealt with on the bilateral level include not a few problems that are of common concern to all countries and whose meaningful solution cannot be expected without the co-operation of all countries, in addition to those which can properly be handled between two countries or among a limited number of countries concerned. Such problems have been on the increase because of the internationalization of social life.

Second, the importance of the United Nations as a place to collect information and also publicize a nation's opinion and position as well as to seek the understanding of other countries.

In this context, it is of great significance that the United Nations includes almost all countries of the world and provides a forum for the discussion of all sorts of problems. The United Nations has a great importance as a place for contacts of important persons of various countries. In this context, the general debate and speeches at the start of the General Assembly each year deserve special mention, as leaders of various countries gather in the United Nations almost at the same time, it is comparatively easy for them to meet with each other. Thus the role being played by the United Nations in promoting understanding among the nations and also in international co-operation is great.

There has been a great deal of efforts for economic and social development, this problem has been considered from the standpoint of improving the welfare of mankind through the elimination of causes of conflicts stemming from the egoism of various countries by studying from the global perspective the most efficient way of economic and social development based on the recognition that all nations are interdependent, instead of from the standpoint only of raising the standards of living in the developing countries and eliminating the gap between the North and the South.

There is the strengthening of the structural and financial aspects of the United Nations in order to build a foundation for making such concrete efforts possible. The Charter of the UN, which has not been amended, has been in view. Except for a few points, since the establishment of the United Nations, and also to urgently reconstruct its finances, which are in a state of chronic deficit, in order for the United Nations to meet the needs of the times and play its role effectively in the future.

1.01 **Equitable Geographical Representation**

Permanent membership in the security council of the United Nations has been reduced to the level of member country's contribution. Some school of thought have argued, opposing any increase in the Council's permanent membership, stating that such an increase would only serve the interests of a few countries and alienate the majority of others. They rather called instead for a proportional increase in the number of non-permanent members. Some others argue that

Germany and Japan, the second and third largest contributors to the Organization, deserved permanent seats. They expressed concern that the influence of most troop-contributing countries on the decision-making process in the Council remained marginal.

In plenary organs, all members are represented, and it may thus be presumed that all different points of view will be brought forward. In non-plenary organs, it is inevitable that some states will not be able to express their knowledge and interests.

1.02 **Rules for International Organs**

Interests of states of the same region are similar, and that therefore most differing views will be expressed in non-plenary organs which are composed of members selected from all geographic areas. A comparison of voting habits in plenary organs shows that, indeed, states from the same region often vote alike.¹ Bodies that advise on technical issues need a composition that is in its totality the most expert in the field. This does not necessarily mean that only the most learned individuals are required as members, for they might all come from only one region of the world. Although the expertise of individual members from other regions may be less, their participation in the organ increases its representativeness. Members of the organization that are not members of the organ in question will more readily put their faith in an organ in which they find their own culture represented. Moreover, a body composed of experts from different regions will include members who can more easily understand the views of different peoples and their reactions to proposals that may be made. Finally, it is also important for the organization that the membership of non-plenary organs rotates among all members of the organization. Members elected to these organs feel more involved in the work of the organization. For these reasons, many international organizations require an “equitable” or “balanced” geographical distribution in the composition of their non-plenary organs.²

International organizations strive for an equitable geographical distribution of seats in non-plenary organs even where there is no constitutional requirement to this effect. Some constitutions provide merely for certain limits in the composition of non-plenary organs. The ILO constitution used to provide that two employers’ representatives and two workers’ representatives should be from non-European states.³ Prior to the 1976 amendment, two Executive Directors of the IMF were to be elected by American states other than the US.⁴

¹See e.g. B.M. Russett, *Discovering Voting Groups in the United Nations*, 60 *APSR* 327-339 (1966), also published in R.W. Gregg and M. Barkun, *The United Nations System and its Functions* (1968), at 72-87.

²See e.g. UN Charter, Art. 23.1; WHO, Art.24; UNESCO, Art.V.3; ICAO, Art.50; WMO, Art.13; IAEA, Art.VI.a; FAO, General Rules of the Organization, Rule XXII.3.

³ILO, Art. 7.4 (original text).

⁴IMF, Art. XII, Section 3b.

The usual method for obtaining equitable geographical representation is by the reservation of a number of seats in non-plenary organs for members of particular regions.

B. Composition of Regions

To facilitate an equitable geographical distribution of seats in non-plenary organs, international organizations must divide their members into different regional groups. Such regional groups may also play their role when regional commissions are created.

The words “region” and “regional” should not necessarily be understood in their strict geographical sense.⁵ Geographical representation forms part of the representation of interests. The exact meaning of the word “region” depends on the interest involved, and therefore on the purpose of the organization concerned and of the organ formed. The World Meteorological Organization works with geographical data. Wind and weather do not depend on political and cultural factors. The regions of World Meteorological Organization are defined geographically, partly by degrees of longitude and latitude.⁶ For the World Health Organization, geographical factors also have great importance. Contagious diseases will spread within territorial regions. Here, however, some political factors also play a role. Communications between peoples are strongly affected by frontiers. It is therefore useful to form regions of states belonging to the same political sphere, provided that they are not too far apart geographically. This mixture of political and geographical factors caused problems in forming an Eastern Mediterranean regional bureau, in which Israel and the Arab states would both have had to take part.⁷ Due to this complexity, the establishment of the regional bureau in Alexandria was delayed for a long time. The Universal Postal Union for example mainly depends on communications. Short-distance mail is usually greater in volume than long-distance mail. The The Universal Postal Union regions are geographically based. Postal communications, however, also depend on political relations between states. The borders between the Universal Postal Union’s five regions, therefore, are also influenced by (former) differences in the political systems of its members; Eastern and Western Europe are separate regions.⁸

The UN performs such a variety of tasks that the basis for equitable geographical representation will vary considerably depending on the organ to be formed. The

⁵For different types of groups, see Kaufmann, op. cit. note 161 [Conference Diplomacy], at 146-152. See also R. Goy, *Les régions établies par l’UNESCO en vue de l’exécution de ses activités régionales*, 20 AFDI 613-625 (1974).

⁶The regions are: Africa; Asia; South America; North America, Central America and the Caribbean; South-West Pacific and Europe. See WMO General Regulations, Annex II.

⁷On the regions of WHO, see R. Berkov, *The World Health Organization* (1957), at 129 ff., 146 ff, and Resolutions WHA 1.72, WHA 5.43 and WHA 6.45 of the World Health Assembly (the general congress of the WHO). The regions of the WHO are: (1) Eastern Mediterranean (from Tunisia to Pakistan, from Cyprus to Ethiopia and Somalia), (2) Western Pacific (including Laos, Malaysia and Singapore), (3) South East Asia (including Mongolia, Thailand and Indonesia), (4) Europe (including Israel, Russia and Turkey), (5) Africa, (6) the Americas (for a complete enumeration, see United Nations Handbook 2010-2011, at 302-307).

⁸Universal Postal Union’s five regions are: Western Hemisphere; Eastern Europe and Northern Asia; Western Europe; Southern Asia and Oceania; Africa. See United Nations Handbook 2010-2011, at 313-316.

Security Council is a political organ. Its members should equitably represent political groupings. The gentleman's agreement made in London in 1946 actually recognized political groupings, although the groups were geographically prescribed.⁹ The General Assembly deliberately misinterpreted the agreement when it elected Greece and Turkey to the Eastern European region, however geographically Far East in Europe these states may be. The seat was actually intended for an Eastern European state belonging to the Socialist group. The geographical distribution used at present by the UN also takes account of political affiliations. There is no reference to regional groups in the UN Charter. In practice, such groups have been formed for various purposes (for example, consultations and negotiations, and the distribution of elected places in a number of organs). The regional group system was developed during the 1950s and "was first reflected in indirect form in General Assembly Resolution 1192 (XII) of 12 December 1957 concerning the composition of the General Committee of the General Assembly".¹⁰ For many years, Israel was not invited to become part of any regional group. Geographically in Asia, it was not invited by the Asian Group (having numerous Muslim states opposing membership by Israel). It could therefore not participate in many consultations within the UN, and could not be elected in a number of non-plenary organs. In 2000, it was admitted to the Western European and other states group (WEOG). However, this membership is limited to WEOG activities in New York. At present there are five regional groups in the UN: the African states, the Asian states, the Eastern European states, the Latin American and Caribbean states, and WEOG.¹¹ For the election of the vice-presidents of the General Assembly, the UN divides its members into six groups: (1) African states; (2) Asian states; (3) Eastern European states; (4) Latin American states; (5) Western European and other states; (6) Permanent members of the Security Council. The same division, with the exception of the sixth abovementioned group, is used for the election of the chairmen of the Main Committees of the General Assembly. In the Security Council, the seats for non-permanent members have been distributed, since 1965, between the following four groups: African and Asian states, Eastern European states, Latin American and Caribbean states, and Western European and other states, in the proportion 5:1:2:2.¹² In the Economic and Social Council of the UN, the following pattern is used: 14 members from African states, 11 from Asian states, 10 from Latin American and Caribbean states, 13 from Western European and other states, and 6 from Eastern European states.¹³ This pattern is followed in a number of other UN organs. Again, other UN organs allocate their seats to both developing and developed states. Some scholars have analysed and criticized the present regional group system in the UN. On the basis of an analysis of the election

⁹See T. Hovet, *Block Politics in the UN* (1960); S.D. Bailey and S. Daws, *The Procedure of the UN Security Council* (3rd ed. 1998), at 168-173. geographical distribution used at present by the UN also takes account of political affiliations. There is no reference to regional groups in the UN Charter. In practice, such groups have been formed for various purposes (for example, consultations and negotiations, and the distribution of elected places in a number of organs). The regional group system was developed during the 1950s and "was first reflected in indirect form in General Assembly Resolution 1192 (XII) of 12 December 1957 concerning the composition of the General Committee of the General Assembly".

¹⁰See *United Nations Juridical Year book* 2003, at 528-529.

¹¹See *United Nations Handbook* 2010-2011, at 14-16; *UNJY* 2003, at 528-529.

¹²GA Res. 33/38, amending Rules 31 and 38 of the GA rules of procedure; GA Res. 1991 A (XVIII) amending Charter Arts. 23 and 27 relating to membership of the Security Council.

¹³GA Res. 2847 (XXVI).

of non-permanent members of the Security Council and of the election of members of three other non-plenary organs (Economic and Social Council, the Human Rights Council and the International Law Commission), they further opine that there are “...significant inequalities between and within the existing regional groups. The WEOG is markedly over-represented and developing as well as small states are under-represented in the UN’s non-plenary organs”.¹⁴ While they do not suggest radical changes in the present regional group system, they suggest ten general principles “that should guide the thinking on the formation of regional groups and their internal organization”. One of these principles is that “geographical affiliation should be just one of several criteria for determining group membership. Others may be language, culture, religion, economic or legal system, history, or membership of a political or economic integration organization”.¹⁵

As the composition of the regions depends on the function of the organ concerned, it may well be the case that a particular state belongs to different regions for different purposes. Disputes may often arise as to who is to decide on the affiliation of a state to a particular region.¹⁶ This is not only a question of concern to the state itself. It is equally important for the region to have a say in the question of who may represent it in the organization, and it is of importance for the organization that the opinion expressed on behalf of a group of members is representative of these members. Equitable geographical representation is an issue for non-plenary organs. In the plenary organs, all members are represented and the voting power of a region depends on the number of its members. To some extent, the organization can strengthen the position of a particular region either by admitting very small states as separate members, or by allowing a weighted representation to the most important states.

2.00 **Equitable Representation of Specific Economic Interests**

In some international organizations, interests other than those that are merely geographical must be represented on an equitable basis. Such interests may be conflicting, or simply differ in importance between states. Examples of conflicting interests are those of producers and consumers, and those of developed and developing states. Examples of interests of different importance are to be found in fishing or aviation, which are major sources of national income for some states, while of almost no interest to other states. In the case of conflicting interests, one should strive for an equitable representation of both groups; in the case of interests of different importance, a balance in which the interests are represented proportionally should be the objective.

A balance of interests between producing and consuming states is found in the commodity councils, which usually distinguish between two categories of members: exporting (or producing) members, and importing (or consuming) members. Usually, these two groups each hold the same amount of votes. The Executive Board of UNDP and UNFPA balances the interests of developing and developed states. It is composed

¹⁴S. Talmon, Participation of UN Member States in the Work of the Organization: A Multicultural Alternative to Present-Day Regionalism?, in S. Yee and J.-Y. Morin, Multiculturalism and International Law – Essays in Honour of Edward McWhinney 239-275 (2009), quotation at 272.

¹⁵op. cit. note id., at 273.

¹⁶Berkov, op. cit. note 312, at 129 ff.

of 20 developing states (allocated as follows: 8 for African countries, 7 for Asian and Pacific countries, and 5 for Latin American and Caribbean countries) and 16 for developed states (12 for Western European and other countries, and 4 for Eastern European countries).¹⁷ The members of some UN organs are selected “on the basis of their demonstrated interest”, which means that states that voluntarily contribute to the programme concerned will obtain a greater influence.¹⁸ Many specialized agencies attribute greater representation to states that are particularly involved in their fields of operation.¹⁹ The European parliamentary organs distribute representation according to the population of the member state. In the UN, the most powerful members have a privileged position.²⁰ The Executive Board of International Fund for Agricultural Development is composed of 8 Western states, 6 developing states and 4 members of Organization of the Petroleum Exporting Countries.²¹

Apart from representation by particular states, specific interests may be defended by representatives of the interest groups themselves. Their representation in public international organs is rare. Most international organizations that want to allow interest groups a hearing prefer to form separate advisory organs for them or permit them to make proposals, either informally or officially. The International Labour Organization is the only important international organization in which representatives of interest groups sit in the same organs with the same power as representatives of member states. In most organs of the International Labour Organization, representatives of the workers and the employers each hold a quarter of the seats. In the general congress of the organization, the non-government representatives form part of the national delegations although they vote independently. In other organs, they are chosen in their own capacity.²² It may be quite possible for a Dutch worker representative to sit on a board that contains no delegate from his government.

3.00 Means of Strengthening Representation

In order to achieve an equitable representation of interests, the position of some states may have to be strengthened. There are three ways of doing so.

- (1) Extra votes may be attributed to the most interested members, or the votes may be distributed in such a way that two groups of members obtain the same number.

¹⁷GA Res. 48/162.

¹⁸See E.H. Buehrig, *The UN and the Palestinian Refugees, A Study in non-territorial Administration* (1971), at 55.

¹⁹See e.g. ILO, Art. 7; IAEA, Art. VI.A; ICAO, Art.50; IMF, Art. XII, Section 3; World Bank, Art. V, Section 4; IMO, Art.

²⁰See e.g. UN Charter, Arts. 23 and 86.

²¹Art. 6, Section 5a; Schedule II.3(b).

²²In committees dealing with the items on the agenda, it is the practice of the ILO general congress to give equal representation or equal voting power to the three groups. See *Standing Orders of the International Labour Conference*, Art. 65, para. 3 (footnote 8). Exceptions are the Finance Committee, entirely composed of government representatives (*Standing Orders*, Art. 7bis), the Credentials Committee, with only one government representative to one worker and one employer (*Standing Orders*, Art. 5.1), and the Drafting Committee, whose members are chosen individually regardless of their groups (*Standing Orders*, Art. 6.1).

- (2) A member may be permitted to send more than one delegation to a meeting (weighted representation). The most extreme form of weighted representation is the attribution of separate membership to parts of the states concerned. Another form is the acceptance of a large number of delegates each of whom enjoys voting rights. Additional state representatives will strengthen that state's position if they are under the instructions of their government. Even when they are not under the instructions of their government, for instance in European parliamentary organs, additional representatives will increase the influence of their states. Almost every individual will in some way be influenced by public opinion in his own state. Only in a highly integrated organization will the nationality of delegates play a minor role.

The most important examples of weighted representation are found in European regional organs. The larger states send more parliamentarians to, for example, the Parliamentary Assembly of the Council of Europe than the smaller states do (18 for the largest, 2 and 3 for the smallest states in the Council of Europe). The parliamentarians of one member do not always vote in the same way. Since the 1994 direct elections, 99 representatives from Germany are members of the European Parliament; the other large member states (France, Italy and the UK) each send 87 representatives, Spain 64, and the smaller member states 31 to 6.²³ As in other parliamentary organs of international organizations, these parliamentarians are not under the instructions of their governments. They do not usually vote as national units. To the Economic and Social Committee of the EU, and to the EU's Committee of the Regions, the largest member states send 24 members, the smallest (Malta) 5.²⁴ These representatives are not under government instruction either, and do not vote as national units. The Benelux Inter-parliamentary Consultative Council is composed of 21 members appointed by each of the Belgian and the Dutch parliaments, and 7 members appointed by the Luxembourg Parliament.²⁵

- (3) Those members with the greatest interest may be attributed seats in non-plenary organs. The smaller the organ, the greater the relative strength of such members. The attribution of specific seats may be to expressly identified states (for example, China, France, UK, US and USSR (now Russia) in the UN Security Council). This, however, has the disadvantage of freezing positions. If the relative interests of the members change, the necessary redistribution would only be possible by constitutional amendment.

Amendment of the constitution may not be necessary when the privileged state renounces its position. According to the original text of the Statute of the International

²³See the Decision amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ 1993, L 33/15).

²⁴Arts. 258 and 263 EC. See also Arts. 301, 305 TFEU.

²⁵1955 Convention setting up a Benelux Interparliamentary Consultative Council, Art. 1.

Atomic Energy Agency, Belgium was in a favourable position for being elected to the board (Article 6A.2), in view of its colony.

Congo, a producer of uranium, when Congo became independent, the Belgian government agreed to accept a different composition of the International Atomic Energy Agency board. In 1973, the text of the International Atomic Energy Agency Statute was amended accordingly.²⁶

Usually, however, specific seats in non-plenary organs are not attributed to expressly identified states: instead, objective criteria are used to define which states are intended to benefit. For example, Article 7 of the International Labour Organization (ILO) constitution provides that the Governing Body (the ILO's board) shall consist of 56 persons, of whom 28 represent governments. Of these 28 persons, "ten shall be appointed by the members of chief industrial importance" (emphasis added). The 1986 amendments to this provision have not yet entered into force. Article 50 of the ICAO constitution deals with the composition of the International Civil Aviation Organization (ICAO) Council, a non-plenary organ. Paragraph (b) stipulates, *inter alia*: "In electing the members of the Council, the Assembly shall give adequate representation to (1) the states of chief importance in air transport; . . ." (emphasis added).²⁷ Articles 16-17 of the constitution of the International Maritime Organization (IMO) deal with the composition of the IMO Council. This Council is composed of 32 members, of which 8 shall be "states with the largest interest in providing international shipping services" (Article 17(a)); another 8 shall be "other states with the largest interest in international seaborne trade" (Article 17(b)).

While these systems of attributing seats have the advantage that constitutional amendments are not necessary to change the occupation of these seats, they have the disadvantage that conflicts may arise as to which states are "of chief industrial importance", "of chief importance in air transport", and so forth.

For example, the original text of Article 28(a) of the Intergovernmental Maritime Consultative Organization constitution reads "The Maritime Safety Committee shall consist of fourteen members elected by the Assembly from the members, governments of those nations having an important interest in maritime safety, of which not less than eight shall be the largest ship-owning nations,..." In 1959, Liberia and Panama were not elected to this Committee. Different interpretations of the phrase "largest ship-owning nations" led the Intergovernmental Maritime Consultative Organization Assembly to request an advisory opinion from the International Court of Justice. According to the ICJ, the ship's flag is the decisive criterion; the largest ship-owning nations are the nations having the largest registered ship tonnage. Applying this criterion, Liberia and Panama belonged to the eight largest ship-owning nations, and

²⁶Declarations during the 23rd session of the UN General Assembly, see publication no. 93 of the Netherlands Ministry of Foreign Affairs, at 29. See also P.C. Szasz, *The Law and Practices of the International Atomic Energy Agency* (1970), at 148-149.

²⁷For the procedural problems involved in electing representatives from different groups of interests, see R.H. Mankiewicz, *Organisation de l'Aviation Civile Internationale*, in: 8 AFDI 675768 (1962).

therefore had the right to be elected to the Maritime Safety Committee.²⁸ When the US withdrew from the International Labour Organization in 1977, it was decided that Brazil should fill the vacant seat in the Governing Body, as a member of chief industrial importance.

When the US re-entered the International Labour Organization in 1980, it was recommended that Brazil should leave the Body, not being ‘one of the ten’ any more. However, this gave rise to controversy, and after a number of consultations it was decided that Brazil would remain a member of the Body. As a result, there were now 11 members of chief industrial importance. A number of International Labour Organization members pointed out that this was not in conformity with the constitution. An opinion was requested from the Legal Advisor of the International Labour Organization, who found a way to justify this situation: China – one of the ten – was at the time not an active International Labour Organization member, thus in practice there were ten active members of chief industrial importance. As a matter of fact, this justification could only be used up to June 1983, when China resumed active membership in the International Labour Organization.²⁹

The effect of the various means of strengthening representation is not quite identical in each situation. Extra votes are fully controlled by the states concerned, and thus constitute a powerful method of attributing greater influence. Sending more than one delegation may have the same effect, but in practice the additional delegation is often either from a part of the member (a separate republic or an overseas territory) which may have sufficient autonomy to develop a policy of its own, or it is not subject to instructions and may therefore follow a different policy from the main delegation. Permanent seats provide a strong position, but only in non-plenary organs. Unlike weighted voting and weighted representation, they have no effect in plenary organs.

Too great a strengthening of the influence of a particular group of states may lead to tension within the organization. When the developing states found their influence insufficient in the Intergovernmental Maritime Consultative Organization, they increasingly dealt with maritime matters in other organizations, mainly in United Nations Conference on Trade and Development, in which their position was stronger. This finally led to a complete restructuring of Intergovernmental Maritime Consultative Organization into a new organization, the International Maritime Organization, in which interests were better balanced.³⁰

3.01 Election of Non-Plenary Organs

²⁸Constitution of the Maritime Safety Committee of the Intergovernmental Maritime Consultative Organization, Advisory Opinion, ICJ Rep. 1960, at 150 ff., in particular at 167-171. A similar representation issue has emerged more recently in relation to the IMO Council; see Ademun-Odeke, From the ‘Constitution of the Maritime Safety Committee’ to the ‘Constitution of the Council’: Will the IMCO Experience Repeat Itself at the IMO Nearly Fifty Years On? The Juridical Politics of an International Organization, 43 *Tex.Int’L.J.* 55-113 (2007-2008).

²⁹See Osieke, *op. cit.* note 216, at 103-107.

³⁰See J. Dutheil de la Rochère, *Une institution spécialisée enaissante: la nouvelle Organisation maritime internationale*, 22 *AFDI* 434-473 (1976).

The interest of members in some types of commissions may be so limited that a commission that is open to all members will be sufficiently small in practice. More often, however, members of non-plenary organs will have to be elected. The system of election may influence the composition of the organ. In principle, two systems of election are available: election by the general congress of the organization (in which all members are represented), or election by the region or group concerned.

3.02 **Election by the Entire Organization**

With the non-plenary organ representing the entire organization, all member states will want to ensure that it is comprised of members in which they have the utmost confidence. Usually, all members will take part in the elections on an equal footing, even those that are represented in the organ by virtue of a constitutional provision. This system is employed in most universal organizations: the five permanent members take part in the election of the other members to the Security Council, while the “seafaring”, “air-navigating” and “nuclear” states, which have seats on boards of the International Maritime Organization, the International Civil Aviation Organization and the International Atomic Energy Agency, nevertheless participate with full rights in the election of the other members. In most universal organizations, the Asian and European members participate in the election of the African or Latin American representatives to non-plenary organs and vice versa. This system is also followed for the European Commission and the EU Court. Even though, in practice, each member state claims one or more seats for its own nationals, it may not appoint them. Since they are charged with a ‘Union function’, they must be appointed by the European Council (in respect of the Commission) or by mutual agreement of the governments of the member states (in respect of the Court).³¹The advantage of this system of election is that the non-plenary organ represents the organization as a whole. Each of its members will have the confidence of at least a majority of the organization. The electing organ can take interests other than equitable geographical representation into consideration. Under this system of election, it is possible simultaneously to have an equitable geographical distribution, equitable distribution of interest groups and a fair division of seats between small and large states.

For example, Article 50(b) of the International Civil Aviation Organization constitution provides: “In electing the members of the Council, the Assembly shall give adequate representation to (1) the states of chief importance in air transport; (2) the states not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the states not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council”.

An optimal distribution of seats of any non-plenary organ is only possible, however, when the majority in the electing organ has the wisdom to take

³¹TEU Arts.17 (Commission) and 19 (Court).

account of minorities in the elections. When a particular political group dominates the organization, minorities may be insufficiently represented. Thus, between 1950 and 1962, there was a tendency in the UN to elect states aligned with the West as members of subsidiary organs.³²

What are the legal consequences arising from a possible inability of the plenary organ to elect a member of the non-plenary organ, as a result of which the latter is imperfectly composed? This happened when, in December 1979, the UN General Assembly failed to elect one non-permanent member of the Security Council. On 31 December 1979, the UN Legal Counsel made a statement in the meeting of the Assembly on this matter. He noted that a failure by the General Assembly to elect a non-permanent member in time “would constitute a failure to comply with its constitutional functions and would violate the clear language of Article 23 of the Charter”. He concluded that “such an act of omission could not produce legal consequences for the functioning of the Security Council”. Decisions of the Council would nevertheless still constitute valid decisions. While such a situation is not legally or constitutionally desirable, “in the interests of maintaining the authority of the Security Council and the balance of powers between the General Assembly and the Security Council, it is essential that the General Assembly should fulfil its obligations and responsibilities under the Charter”. Finally, on 7 January 1980, the election was completed.³³

3.03 Election by the Region or Group Concerned

Since the organ is representative of the different interests existing within the organization, it may be formed by the interest groups or regions themselves. The organization must decide only which regions or interests will have seats in the non-plenary organ and determine their proportional allocation.

This system is found in part of the membership of the board of the World Meteorological Organization. On this board, inter alia, sit the Presidents of the Regional Organizations, who are elected by the regions.³⁴ This system is also used in the Organization for the Prohibition of Chemical Weapons. The 41 seats of the Executive Council are distributed among five geographical regions. The Organization for the Prohibition of Chemical Weapons member states located in each region have to designate ‘their’ required number of members of the Council.³⁵

The system of election by which groups of members are represented by one specific member of the board is followed most explicitly by the International Monetary Fund and the World Bank. It applies in the election of their Executive Directors, who form the executive boards of these organizations as well as, in

³²M.R. Singer and B. Sensenig III, *Election within the United Nations: an Experimental Study Utilizing Statistical Analysis*, 17 *International Organization* 901-925 (1963).

³³United Nations Juridical Yearbook, 1979, at 164-166. In 1983, see also United Nations Juridical Yearbook 1983, at 183-184).

³⁴WMO, Arts. 13 and 18(e).

³⁵OPCW, Art. VIII.C.23.

practice, those of the International Finance Corporation and the International Development Association, whose Executive Directors are Executive Directors of the World Bank.³⁶ The regional development banks use the same system for forming their boards.³⁷

The International Monetary Fund's Executive Board, a non-plenary organ, is the permanent decision-making body of this organization. In 2010, it was composed of 24 Executive Directors. Of these 24, 5 were appointed by the members having the largest quotas³⁸ US, Japan, Germany, France, UK. In addition, 19 Executive Directors were elected by the Board of Governors, the IMF's general congress.³⁹ Each elected Executive Director can be regarded as the representative of the members who elected him. In 2010, 19 elected Executive Directors represented 187 member states. For example, the Italian Director represented, apart from Italy: Albania, Greece, Malta, Portugal, San Marino and Timor Leste. The Indian Director represented India, Bangladesh, Bhutan and Sri Lanka. The Executive Directors will defend the interests of their constituency in particular. They have the right to cast all the votes of the members that elected them. They are responsible for presenting and explaining the views of 'their' countries during Board discussions.⁴⁰ In practice, a close relationship has developed between the Executive Directors and the members they represent.⁴¹ The main purpose of this special method of forming the executive boards of the financial organizations was to transfer the weighted voting system of the plenary organ to the executive board. Organizations without a weighted voting system could, however, use the same principle in forming non-plenary organs. The transfer of the system to other universal organizations would mean that, generally, every three to five members of an organization would have one common representative in the non-plenary organ.

Could a regional group block the functioning of an organ by not nominating a representative to this organ? With regard to the composition of the Ad Hoc Committee on the Preparations for the Public Hearings on the Activities of Transnational Corporations in South Africa, two questions were raised: first, whether the Economic and Social Council President could proceed with the appointment of the candidates nominated by four of the five regional groups on the understanding that he would continue his efforts to obtain the fifth regional group's nomination for the remaining vacancy; and second, whether the Ad Hoc

³⁶IFC, Art. IV.4; IDA, Art.VI.4.

³⁷Inter-American Development Bank, Art. 8, Section 3; African Development Bank, Art.33, juncto Annex B; Asian Development Bank, Art.30; European Bank for Reconstruction and Development, Art. 26.

³⁸If they are not amongst these 5, the 2 members who had subscribed or lent to the IMF the largest amount of resources used by the Fund in its outstanding transactions, may also appoint one Executive Director each (IMF, Art. XII).

³⁹344 Rules on the election of these Executive Directors are laid down in Schedule E annexed to the constitution.

⁴⁰J. Gold, *Legal and Institutional Aspects of the International Monetary System, Selected Essays: Volume II*, (1984), at 386-390, 451.

⁴¹J. Gold, *Voting and Decisions in the IMF* (1972), at 65. 348 UNJY 1984, at 167-168.

Committee could be considered as having been properly constituted and able to proceed with its work if the group in question indicated that it does not wish to participate in it. The Office of Legal Affairs of the UN Secretariat answered the first question by stating that the Economic and Social Council President may proceed to appoint the persons who already had been nominated, because the resolution establishing this Ad Hoc Committee did not require him to wait until all nominations were made, and because this was in line with previous UN practice. As to the second question, the Office answered that examples from practice may lead to the conclusion that “the fact that a particular group entitled to be represented on a subsidiary organ of the United Nations does not desire to participate in the work of that organ should not have the effect of preventing the organ concerned from being effectively, albeit incompletely, constituted and from carrying out the functions entrusted to it. In our view this in effect constitutes a waiver by the group concerned of its right to be represented on the organ in question”.

The main advantage of the election of members to a non-plenary organ by the region or group concerned is the close tie between each of the members of the organization and one member of the organ. Every member of the organ represents a particular group of members of the organization. The elected person can look after their interests and he can receive instructions, or at least suggestions, from all of them. Each member of the organization will find itself represented in the non-plenary organ, and may therefore be more closely involved in its work. The confidence of the total membership in the non-plenary organ is thus increased. One early study has demonstrated that this enabled the International Monetary Fund, the World Bank, International Finance Corporation and International Development Association to delegate far more powers to their executive boards than any other organization.³⁴⁹ The close liaison between the person elected to the non-plenary organ and the states that have elected him offers the further advantage of stimulating cooperation between the states concerned.

This cooperation may be further enhanced when states are jointly represented in a subsidiary organ. In their 1975 report on a New UN Structure for Global Economic Cooperation, a UN group of experts proposed joint representation in the Economic and Social Council. One delegation would represent all states of the group; which state would actually send the delegates would depend on the subject matter under discussion. This proposal may be useful for groups of states like the EU, Benelux or the Nordic countries, which are closely linked. But for most other groups, the problems involved in forming a common delegation and providing it with instructions may be too great. In 1974, Trinidad and Tobago made a proposal to open membership of the International Civil Aviation Organization board officially to groups of members of the organization. In their opinion, such groups already existed informally (for example, the Scandinavian states). The proposal, however, failed to obtain the required majority.

Apart from the practical problems in forming groups of states, one disadvantage may be that a delegate representing a number of states will need instructions, delivered after mutual consultation between the states concerned, which will therefore be difficult to amend. This will impede the negotiation of compromise solutions.

Elections often take a considerable amount of time, and they may antagonize delegations at the beginning of meetings. Therefore, some organizations prefer a form of rotation of posts for many subsidiary organs there are no elections, as the members do not consider them to be of sufficient importance to warrant a contest. For organs such as credentials committees, therefore, the bureau of the electing organ and the secretariat will usually prepare a plan for fair representation, and ask delegations whether they are willing to take a seat. When their proposals for its composition are successful, the electing organ will accept this without any formal election. Sometimes the president of an organ is charged with determining its composition.⁴² It has happened, exceptionally, that a member state, not a member of the Credentials Committee of the UN General Assembly, requested to participate as an observer in a meeting of the Committee. This request was refused. Subsequently, the Office of Legal Affairs of the UN Secretariat supported this decision, arguing that “such participation [by a non-member] could seriously affect the ability of [the Credentials Committee and other expert bodies] to carry out their responsibilities expeditiously and effectively”.⁴³

Any system of election makes an organ to some extent dependent on the organ that elects its members. In some cases, a hierarchy between organs is avoided by appointing the total membership as the electoral college (for example, the judges of the EU Court, appointed by common accord of the governments of the member states).⁴⁴ Even then, however, the elected persons will, in some way, be dependent. They need the support of governments to be re-elected. Practice has shown that members of the European Commission have sometimes not been re-elected for a new term because of opposition from a member state.⁴⁵ For the purpose of creating a fully independent organ, the original constitution of the European Coal and Steel Community provided that at least one, and at most five, of the nine members of the High Authority would be co-opted by the other members.⁴⁶ The member governments would have a limited right of veto against unfavourable appointments. If abused, a veto could be annulled by the Court of Justice. This system would make it possible to elect members

⁴²See e.g. GA Resolutions 1966 (XVIII), 2081(XX), para. 15; 2188 (XXI), and in a more general way IFAD, Governing Council Rule 15.2.

⁴³United Nations Juridical Yearbook 1983, at 173-174.

⁴⁴Art. 19.2 TFEU. Originally the European Commission was also appointed in this way. However, with the entry into force of the 2007 Lisbon Treaty, the Commission is appointed by the European Council, thus creating a formal hierarchy between these institutions of the Union (Art. 17.7 TEU).

⁴⁵356 E.g. in 1961 President Hirsch of the (then) Euratom Commission was not re-elected because of opposition by De Gaulle. See J.-V. Louis, *La désignation de la Commission et ses problèmes*, in: Louis and Waelbroeck (eds.), *op. cit.* note 296, at 10.

⁴⁶European Coal and Steel Community, Art.10 (original text).

belonging to national opposition parties. In practice, the system did not work. To function effectively, the organ was obliged to cooperate with the member states. It would not have been able to do so very successfully with members who were unacceptable to one or more member states. When a member had to be appointed by co-option, the High Authority would consult the governments and co-opt a person acceptable to them (or even proposed by them).

3.04 **Dates of Replacement**

In most cases, not all members of an organ are replaced at the same time. In order to allow it to continue functioning, it is usually considered preferable to replace one third of the organ's members annually if the members sit for three years, or one half if they only sit for two years.

One of the few amendments made to the provisions of the Statute of the Permanent Court of International Justice when they were incorporated into the Statute of the International Court of Justice in 1945 was a provision for the election of five judges every three years instead of fifteen judges every nine years. The aim of a staggered election, to constantly maintain a group of experienced members, can only be fully realized if the groups elected every time are of approximately the same size. Replacements should therefore sit for the outstanding period of the members replaced, and extensions in membership should be fitted into the scheme. The Council of Europe had not taken full account of this when the European Convention on Human Rights was drafted. It was obliged to amend the Convention when the groups of members of the European Commission on Human Rights and of the European Court of Human Rights, which were elected every three years, had become disproportionate in size. New parties to the Convention automatically meant new members needed to be included in the Commission and in the Court from the date that such new parties entered the organization.⁴⁷

A consequence of holding staggered elections is that the possibility of reviewing the entire organ at the same time is diminished. For this reason, the members of the European Commission are all elected together.⁴⁸ This makes it possible to replace at the same time a Dutch Christian Democrat by a Dutch Conservative, a French Socialist by a French Christian Democrat and a German Conservative by a German Socialist. It would be much more difficult to keep the balance between nationalities as well as between political parties if all vacancies could not be filled simultaneously. To avoid the drawbacks of a totally new organ, the freedom to elect all new members at the same time is balanced by a freedom to re-elect sitting members. The actual date of replacement is usually the first of January after the election, or sometimes even earlier.⁴⁹ If the organ meets only many months later, this may lead to its impotence between 1 January and the

⁴⁷Fifth Protocol to the European Convention on Human Rights.

⁴⁸Apart from the President, who is proposed by the European Council and elected by the European Parliament. See Treaty on European Union, Art. 17.7.

⁴⁹The members of the board of United Nations Industrial Development Organization hold office from the close of the session of the general congress in which they are elected: United Nations Industrial Development Organization, Art. 9, Para. 2.

next session, as there are no designated officers who can conduct its activities. For organs that function between their sessions, or whose working parties continue to operate, this may be harmful. The UN General Assembly therefore decided that the members of the UN Commission on International Trade Law (UNCITRAL) take up their functions at the “beginning of the first day of the regular annual session of the Commission immediately following their election”.⁵⁰ Thus, the old members stay in office until a session of UNCITRAL can organize the work for the new members.

3.05 Quorum⁵¹

Not all members of an organ need to be present for the organ to be capable of acting. Most international organs can be validly formed by a certain percentage of their membership: the quorum. Often the quorum is a simple majority of the members,⁵² sometimes it is a qualified majority,⁵³ but it may also be a minority.⁵⁴ In determining the quorum, only members should be counted, and not other participants without the right to vote for example, associate members. Parliamentary organs of international organizations usually have special rules concerning the quorum. The Parliamentary Assembly of the Council of Europe (PA) and the European Parliament (EP) may deliberate whatever the number of representatives present. For both organs, the quorum is one third of the representatives. All voting (EP) or all votes other than votes by roll-call (PA) are valid, whatever the number of representatives voting, unless, before the voting has begun, the President has been requested to ascertain the number of those present by at least 40 representatives (EP) or by at least one sixth of the representatives authorized to vote and belonging to at least five national delegations (PA); if it is ascertained that there is no quorum, no voting can take place. The commodity agreements usually require a double quorum, both of the membership of each category (importers/consumers and exporters/producers) and of the total voting power of the relevant organ.

See, for example, Article 13 of the 2006 International Tropical Timber Agreement wherein the quorum for any meeting of the Council shall be the presence of a majority of members of each category referred to in Article 4 [producers and consumers], provided that such members hold at least two thirds of the total votes in their respective categories. Members that are counted in

⁵⁰General Assembly of the United Nations Res. 31/99, para. 10.

⁵¹also H.G. Schermers, *The quorum in international organs*, in: K.-H. Böckstiegel et al., *op. cit.* note 118, at 527-535; R. Sabel, *Procedure at International Conferences – A study of the rules of procedure at the UN and at intergovernmental conferences* 96-103 (2nd ed. 2006).

⁵²UN General Assembly Rule 67 (for the taking of decisions); United Nations Educational, Scientific and Cultural Organization, General Conference Rule 62 (for the taking of decisions); International Maritime Organization, Art. 14; International Civil Aviation Organization, Art. 48(c) Multilateral Investment Guarantee Agency Council (Art. 40(b)- the majority of the governors should exercise not less than two-thirds of the total voting power).

⁵³International Fund for Agricultural Development, Art.6, Section 2(g) (two-thirds); Art. 25.3 Statute of the International Court of Justice (9 of the 15 judges of the Court).

⁵⁴UN General Assembly Rule 67 (for meeting and debating, one third of the members is sufficient); WIPO, Art. 7.3(b).

determining the quorum include members that are not eligible to vote because they have not discharged their financial obligations. If there is no quorum as proscribed above on the day fixed for the meeting and on the following day, the quorum on the subsequent days of the session shall be the presence of a majority of members of each category referred to in Article 4, provided that such members hold a majority of the total votes in their respective categories.

Waiting for the presence of a quorum before the opening of a meeting often leads to considerable delay. In order not to waste time, the UN General Assembly decided in 1971 that its President, and the Chairman of one of its main committees, may declare a meeting open and permit the debate to proceed when at least one third of the members of the General Assembly or one quarter of the members of a main committee are present.⁵⁵ In 1972, the Economic and Social Council took a similar decision, enabling the chairman to proceed when at least one quarter of the members are present.⁵⁶ In both organs, the presence of a majority of the members is required for any decision to be taken.

The presence at the meeting of an organ of only a bare majority of the members may mean that majority decisions of that organ are not supported by a majority of the total members of the organ. The General Assembly of the United Nations, which has 192 members can be legally formed by a quorum of 97 members. In such an instance, majority decisions could be taken by 49 votes in favour and 48 votes against and if there are abstentions, the required majority may be even less. Moreover, the quorum is often verified at the beginning of a session. The members are then not counted again at each meeting subsequent meetings within the session might therefore lack a quorum. Decision-making in the absence of a number of the members is not necessarily objectionable. If the agenda containing the items to be discussed is published well in advance of the meeting, and a number of members do not attend, one may assume that they are not sufficiently interested in the items under discussion and would therefore not hold any strong position either for or against any decision to be taken. Their absence need not, therefore, impede decision-making by the other members.⁵⁷ If, on the other hand, the organ wishes to discuss items that are not proposed in advance, or if the items are considered to be of such importance that they must be of interest to all members, the presence of only slightly more than half of the members would be insufficient to take action. Some organs that are responsible for important decisions, or which should be able to decide on items not previously announced, may be formed by a quorum of the members, but may take.

⁵⁵GA Res. 2837 (XXVI), amending the rules of procedure of the General Assembly. It has become practice to waive this requirement in order to avoid the late start of meetings, "on the understanding that such a waiver would not imply any permanent change in the provisions of Rules 67 and 108 of the Rules of Procedure" (UN Doc. A/BUR/65/1, at 5).

⁵⁶Economic and Social Council Resolutions 53rd session (UN Doc. E/5209), at 24.

⁵⁷Some rules of procedure expressly forbid the addition of items to the agenda when members are absent

In plenary organs, each delegation represents only one member, and it may well be left to that member to decide whether or not it wishes to be represented. In non-plenary organs, the members often represent more than one member. They are elected to represent a particular region, interest or point of view. For that reason, absenteeism should not be lightly tolerated. A high quorum should be required when composing non-plenary organs, although this would increase the risk of sessions having to be postponed for lack of a quorum. However, most organizations do not require a substantial quorum for their non-plenary organs. Often a majority of the membership is sufficient; sometimes two thirds of the members are needed.

4.00 **Conclusion**

It has sometimes been emphasized that it would be wrong to assume that, to be effective, international law should increasingly resemble national legal orders, and should develop from a horizontally to a vertically structured law.⁵⁸The UN represents the idea that unbridled nationalism and the raw interplay of power must be mediated and moderated in an international framework. It is the centre for harmonizing national interests and forging the international interest. The UN's learning curve shows that its ideal can neither be fully attained nor abandoned. Like most organizations, the UN is condemned to an eternal credibility gap between aspiration and performance. The real challenge is to ensure that the gap does not widen, but stays narrow.

Achieving a total Equitable Representation of Economic Interest of Members of the United Nations will in this guise be almost impracticable, given that members are not individually endowed with the same sagacity to contribute equally to the sustenance of the United Nations. This fact notwithstanding, particular efforts, when put in place will ensure that arbitrariness or arbitrary misuse and abuse of powers of the stronger members in the United Nations is put to serious check.

5.00 **Recommendations**

The following have been suggested as useful recommendation to achieve a near to equitable representation of Economic Interest in the United Nations:

1. Particular recourse should be given to how long a member of a non-plenary organ retains his seat in the United Nations. This is to ensure a just representation membership and representation.
2. Experience will enhance the value of members of organs, particularly during the first years. The person concerned – whether he is an individual expert or a government representative – will probably be an expert in the field in which the organization operates. He may not be familiar, however, with established procedures in the organ and with its non-technical tasks. Boards – the most important non-plenary organs – in particular often have many administrative

⁵⁸Cf. R.A. Falk, *The Interplay of Westphalia and Charter Conceptions of International Legal Order*, in R.A. Falk and C.E. Black, *The Future of the International Legal Order*, Vol. I (1969), at 42; M. Virally, *Préface*, in G. Malinverni, *Le règlement des différends dans les organisations internationales économiques* (1974), at 4; P.E. Corbett, *Law and Society in the Relations of States* 10 (1951).

functions which require a certain amount of routine work. This may be a factor supporting long-term appointments.

3. The purpose for which the organ is established should be taken into account. Most non-plenary organs formulate their own policy. In particular, boards of international organizations develop the day-to-day policy of the organization, and this requires time. Only gradually will the members gain the insight and develop the esprit de corps necessary to form a policy and acquire the standing necessary for its general adoption. If the member states want the organ to be influential or independent, they should appoint its members for a long term. If they want to restrict the power of the organ, the term should be limited. In addition, the task of some organs may require extensive, long-term personal involvement.
4. Some non-plenary organs meet only rarely, while others are convened frequently. In the first scenario, the term of appointment should be longer than in the second.
5. The organization may want to ensure a rotation of the seats, especially if a non-plenary organ is composed of government representatives. It may be useful to have all governments participate in the organ in turn. This keeps them involved in its work. Having served in a non-plenary organ for a period of time, the member will have a greater understanding of the problems it handles. In organizations with a large membership, an effective rotation of seats is only possible if the members sit in the organ for a short term.
6. Deliberations on the expansion of the Council, for example should be of primus importance. Small States must not be left out in any agreement that was reached. The principles of the sovereign equality of States and equitable geographic representation must be respected.
7. Increase in membership of the Council must strengthen it in maintaining peace and security, Moreover, the Council should be made more representative and all proposals aimed at transparency. So far as the right of veto was concerned, a consensus that appealed to all States must be reached.
8. Call for reform of the Council in order to make it more transparent and more efficient, united around the goal set out by the United Nations. Countries should exert their utmost effort to see to its earliest possible realization.