OPINION REGARDING THE EXCLUSION OF ISRAEL FROM THE UNITED NATIONS REGIONAL GROUP SYSTEM

For the Government of Israel

By

Sir Robert Jennings, QC
Former Whewell Professor of International Law, University of Cambridge
Honorary Member and Past President, Institut de Droit International

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1. I have been asked, on the instructions of the Government of Israel, for my Opinion on a matter of great general interest and importance which is also central to the work of the United Nations Organisation.

2. The matter I have been asked to address is the very damaging and unique position in which the State of Israel finds itself, of being excluded from membership of any one of the now five "regional groups" of Members of the United Nations. All other Members of the United Nations belong in one form or another, or can at any time decide to belong, to one of these regional groups.

3. These regional groups, though not mentioned or indeed envisaged in the United Nations Charter, have nevertheless become an essential part of the whole working structure of the Organisation. There are a myriad of functions and activities of the United Nations in respect of which a Member of the United
Nations is not able to take part other than by way of its membership of one of the regional organisations. There will be found set out in some detail in the main body of this Opinion a more or less complete list of the principal examples of such functions and activities. It is a long and even surprising list. But there is nothing recondite about the existence and the importance and the influence and power of these groups, even though it is for the most part completely unknown to the general public. The crucial importance, for very many practical purposes, of membership of one of these regional groups is part of the every-day experience of all who work in the Organisation, whether in New York or elsewhere, or at the legal or political desks in foreign offices.

4. The actual situation for the State of Israel, however, is that its rights as a Member of the United Nations to participate in the work of the United Nations are largely nullified by its exclusion from membership of a regional group. In practical terms it is simply denied participation in many (indeed most) of the activities, functions and offices in which all other Members do participate and are able by a generally accepted means to exercise influence and power, to nominate for appointments including appointments or elections to UN agencies and organs. This hobbled and undignified position in which the State of Israel uniquely finds itself is without doubt morally
shocking; but it is also manifestly unlawful and constitutes a breach of both the letter and the spirit of the Charter of the United Nations.

5. The unlawfulness of the exclusion of Israel speaks for itself: it is no mere anomaly or irregularity. The unique exclusion without any juridical explanation of only one full and lawful Member of the Organisation from a means, and often the sole means, of partaking in the majority of the activities of the Organisation, must of itself, and quite apart from any express provision of the Charter, raises a presumption of its being contrary to United Nations law. But it is also clearly a breach of the express provisions of Article 2.1 of Chapter I of the Charter - which sets out the Purposes and Principles of the United Nations - that "The Organisation is based on the principle of the sovereign equality of all its Members".

6. The exclusion of Israel from the group system is a grotesque breach of Article 2.1, if that Article is to have any meaning at all. It is in breach not only of equality of treatment; it is in breach of the need for sovereign equality of treatment. For the group system is the means whereby the Member States most frequently and most effectively exercise their sovereign rights in the making of decisions, in elections to office, and in the choices of the policies, legal and political, they wish the United
Nations and its organs to adopt, whether permanently or for a particular time or situation.

7. It should perhaps be made clear that this Opinion is in no way a criticism or complaint about the regional group system. This, as will be shown in the main body of this Opinion, developed naturally out of the practical need for ways of implementing the requirement, to be found both in the Charter and in many of the instruments of the Organisation, for some reasonably fair means for the geographical distribution of appointments in all ranks, of membership of UN bodies, and of participation in discussion and decisions on policy directions and the like. It is not in the least surprising that this group system has over the years become a principal and indispensable means for the exercise of power and influence within the United Nations. No doubt it could be improved in some respects. But that it is here to stay for the foreseeable future cannot be doubted.

8. It is only one aspect of the working of that system that is here subjected to the strongest criticism and that is the total exclusion of just one of the Members of the United Nations from any part in what has become a crucial element of the legal and political structure of the United Nations.

9. Although the question of how this continuing illegality could be cured admits of a number of possible answers, the simplest solution would be to admit Israel to membership of the Western
European and Other States Group. This, however, is a matter for diplomacy - the law requires that the illegality of Israel's exclusion now be cured.

10. Article 2 of the Charter moreover provides that "The Organisation and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

1. The Organisation is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter."

11. The regional group system is an arrangement made by the Members of the United Nations and it is no doubt intended to achieve this second principle. It is manifest from these provisions of principle that Members also bear a responsibility for the continuation of the present situation whereby one of the Members, and one only, is deprived of the possibility of properly partaking of the rights and benefits which the Charter intends should result from membership. It is evident too that
Members are under a legal obligation to remedy the present situation.

12. To the extent that Israel's total exclusion from the regional group system, and hence from full and equal participation in the work of the United Nations, is the consequence of actions and omissions by UN Members, I am of the opinion that such action is a breach by Members of their obligations under the Charter.

13. Israel's continuing exclusion from the regional group system is both unlawful and strikes at the roots of the principles on which the United Nations exists. The remedy for the illegality is clear: Israel's admission to full participation in one of the regional groups. I venture to suggest that Israel's exclusion should no longer be tolerated; and that it is now an issue of primary importance for the Organisation itself to see that it be remedied. So long as it continues, the Organisation is itself in breach of its own Charter.

Signed \(\text{Sir Robert Jennings, QC}\)

4 November 1999

Note: the main body of my Opinion and the historic and factual analysis on which it is based has been set out separately.
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1. INTRODUCTION

1.1 This Opinion concerns the anomalous and very damaging exclusion of Israel from the regional groups at present operating in the UN system. Although Israel is a UN Member, this exclusion empties Israel's membership of a substantial part of its meaning, denying Israel some of the important rights to which it is entitled as a UN Member.

1.2 Regional groups are not referred to in the UN Charter, but regional groups have become the central mechanism for the representation and participation of UN Members in most (and the most important) UN activities. The UN Secretary-General, Kofi Annan, for example, recently described the regional group system as "the basis for participation in many United Nations bodies and activities". There are currently five regional groups in the United Nations: (i) the African States group; (ii) the Asian States group; (iii) the Eastern European States group; (iv) the Latin American and Caribbean States group; and, (v) the Western European and other States group, often referred to by its acronym as "WEOG". Annex II sets out the current membership of each regional group.

1.3 Despite their lack of mention in the Charter, these regional groups have been formally endorsed by the General Assembly, the Security Council, the Economic and Social Council (ECOSOC) and a variety of other non-plenary bodies as the accepted mechanism for distribution of various elected places according to the principle of "equitable geographical distribution". Regional groups are also the forum in which consultations and negotiations take place on many important issues in the United Nations, and are also a primary channel of communication between UN organs and UN Members.

1.4 Israel is the only UN Member prevented from participating in the regional group system. This exclusion places the United Nations in breach of the Principles on which the Organisation is based and in accordance with which its Members shall act. Specifically, Article 2.1 of the Charter obliges the United Nations to accord UN Members juridical equality in a UN context. And, by Article 2.2, in order to ensure to all Members the rights and benefits resulting from membership, all Members shall fulfil in good faith the obligations assumed by them in accordance with the Charter. From this Article, a number of specific rights flow to UN Members, which are denied only to Israel, a UN Member:

(a) the right to participate fully in UN activities; and,
(b) the right to representation in UN organs.

Israel's exclusion from the regional group system also places the United Nations in breach of the rule of non-discrimination.

1.5 The United Nations, and indeed its Members, are obliged by law to remedy this breach of Articles 2.1 and 2.2. Addressing Israel's harmful and unprecedented exclusion from the regional group system has been advocated by the Secretary-General:

"One way to write that new chapter [in Israeli-UN relations] would be to rectify an anomaly: Israel's position as the only Member State that is not a Member of one of the regional groups, which means it has no chance of being elected to serve on main organs such as the Security Council or Economic and Social Council. We must uphold the principle of equality among all UN member States."

1.6 Unless and until Israel's exclusion from the regional group system is addressed, Israel's membership of the United Nations is deprived of its very substance. This breach of a Member's rights continues to occur by a means that is itself quite unknown to those outside the inner circle of United Nations affairs. Israel's inclusion in the regional group system would ensure that Israel, as a UN Member, can avail itself of its rights under the UN Charter and participate fully as an equal Member in the work of the United Nations.

1.7 The conclusions set out in the covering Opinion and this Introduction, above, are based on the analysis contained in the main body of this Opinion as follows:

1.7.1 Section 2, "The Regional Group System in the United Nations", examines the pivotal role of the five regional groups in the United Nations in relation to the distribution of elected places, participation in UN processes and information flows. It highlights the way in which a UN Member excluded from the regional group system has its rights as a UN Member undermined and limited.

1.7.2 Section 3 is entitled, "Sovereign Equality in the United Nations," and examines the role of the sovereign equality principle in the UN system, and the specific rights which flow to UN Members as a result of this principle's incorporation in the Charter.

Section 4, "Israel and the Regional Group System", examines Israel's position as the only UN Member excluded from the regional group system, identifying those rights which Israel is denied through its exclusion from that system. This Section concludes that Israel's exclusion from the regional group system is a Charter breach and, therefore, illegal.

Finally, Section 5, "Conclusions", calls for the United Nations to take steps in relation to Israel's exclusion from the regional group on the basis that the ongoing Charter breach engendered by Israel's position should not be tolerated.

Four annexes are also attached to this Opinion. Annex I discusses the historical background to the rise of regional groups, examining their emergence from the informal caucusing and voting groups which operated in the United Nations at the time of its founding, and eventual formalisation of these groups as "regional groups" by the General Assembly. This section illustrates that although regional groups are not referred to in the Charter, the General Assembly has overseen their use by the UN system.

Annexes II, III and IV are designed to assist the reader's understanding of the regional group in the United Nations. Annex II lists the members of the five regional groups operating in the UN system, Annex III contains a diagram summarising the UN system, and Annex IV summarises the role of the regional group system in various UN organs.

The historic and factual analysis of the UN regional group system, which is set out in this Opinion and its Annexes, has been assisted by the International Law Group of Clifford Chance.
2. THE REGIONAL GROUP SYSTEM IN THE UNITED NATIONS

2.1 The regional group system has become the central mechanism for the representation and participation of UN Members in the UN system. Membership of a regional group is the only way full participation in the work of the UN system can be ensured. The role of regional groups in the UN system is described in more detail below.

☐ Selection of Candidates

2.2 The most pervasive role of the regional group system is in the selection of candidates for elected positions in the United Nations. Annex IV illustrates the wide variety of non-plenary bodies that distribute elected places on the basis of the regional group system. Typically, the body in question, or its parent body, will have adopted a resolution specifying how many elected places in the non-plenary body should go to each regional group. Through internal discussions, regional groups then prepare a slate of candidates for these positions. Thus, in those UN bodies where regional group voting has been formalised (and, indeed, in those bodies where gentleman's agreements specify how elected places are to be distributed), membership of a regional group is the only way a State can have its candidate put forward for a position.\(^3\) Once on a slate, formal elections tend merely to rubber-stamp decisions made by States electing from within their respective regional group.\(^4\) This is because a "general" gentleman's agreement dictates that candidates selected on the basis of regional group systems will be elected by the plenary body: indeed, often no ballot at all takes place when a regional group presents a State. Thus, many UN elections effectively take place within regional groups, and the results are merely endorsed in a plenary or non-plenary setting. In summary, a State that is not a regional group member can never be elected to a UN body which formally or informally has adopted the regional group system for distribution of elected places. Even if such a State's national was clearly the best candidate for a particular elected position, the non-support of the regional group which "owns" the seat would prevent the election of that candidate. Thus, Israel, for example, has never been elected to the Security Council or the ICJ.

2.3 Even where the distribution of elected places has not been established according to a fixed formula, if distribution of elected places is to take

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\(^3\) This situation is illustrated by the example of Dr Shabtai Rosenne. Although eminently qualified to serve on the International Tribunal on the Law of the Sea (ITLOS) established under the UN Convention on the Law of the Sea, Dr Rosenne, after proper nomination, lost all realistic chance of election once it was decided to choose only from amongst the nominees on a regional group basis. In the past, Dr Rosenne had equally failed to be elected to the ICJ itself for this reason.

place according to "equitable geographical distribution," this is interpreted by members as meaning that elected places should be distributed according to the regional group system. In such a case, regional groups consult amongst themselves over the distribution of positions and then "consult [internally] ... to agree upon which of their members are to be 'nominated' so as to give a geographical distribution to the composition of the smaller bodies in the United Nations in accordance with the number of seats allocated to the particular group."\(^5\) This procedure produces the same net effect as that referred to in paragraph 2.2, above: namely, a State excluded from the regional group system cannot, unless it is supported by a regional group, field its nationals in an election.

2.4 In order to operate the regional group system, ballot papers were introduced in 1959 that provide for group voting. These ballot papers specify that voting inconsistently with the regional pattern described on the ballot makes that part of the ballot paper invalid.\(^6\) For example, a ballot paper for the election of vice-presidents to the General Assembly provided that,

"the number of candidates that may be elected from each group is established by the pattern set forth above. If the number of names for any group in the ballot paper is greater than the number prescribed for that group, the vote on that group will be considered as invalid."\(^7\)

It is remarkable how little is discoverable about the actual working of these regional group procedures in United Nations documents and the literature of UN affairs generally.

2.5 A summary of principal organs and other plenary bodies where regional group voting has been adopted now follows. This expands on the information contained in Annex IV, which summarises the role of the regional group system in the United Nations.

\begin{itemize}
  \item \textbf{Security Council}
\end{itemize}

2.6 The Security Council is charged with the maintenance of international peace and security. Originally consisting of five permanent and six non-permanent members, the General Assembly in 1963 expanded this body

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\(^6\) Petersen at 157.

\(^7\) S. Bailey, \textit{The General Assembly of the United Nations: A Study of Procedure and Practice (1960)} at 65, referring to the ballot paper used for the election of General Assembly Vice-Presidents in 1959.
to 15 members by the addition of four non-permanent members.\(^8\) In so doing, the General Assembly also decided that non-permanent Security Council seats should be distributed on the basis of the regional group system as follows: five from the African and Asian Group (as it then was); one from the Eastern European Group; two from the Latin American and Caribbean Group; and two from WEOG.\(^9\) As a result, a UN Member that is not a member of a regional group cannot hold a non-permanent Security Council seat.

\* General Assembly and Constituent Committees

2.7 The General Assembly is the main plenary organ of the United Nations, designated as the central forum for discussion and consideration of UN issues:

"The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters."\(^10\)

2.8 Although it is the United Nations' main plenary organ, the regional group system is used to select candidates for key positions in the General Assembly and on many of its constituent committees:

\* The elections of the General Assembly's President, twenty-one Vice Presidents and chairmen of the six Main Committees\(^11\) are conducted on the basis of the regional group system.\(^12\) In turn, the President,

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\(^8\) Article 23(1), UN Charter, as amended by GA Res. 1991A (XVIII) (1963). Although the African and Asian Groups later split into two groups, the formal General Assembly Resolution on composition has not changed.


\(^10\) Article 10, UN Charter. See I. Shearer, Stare's International Law, 11th ed (1994) at 572, which states that the General Assembly is: "a deliberative body, with powers of discussion, investigation, review, supervision and criticism in relation to the work of the United Nations as a whole, and of the various other organs of world government provided for in the Charter including the specialised agencies."

\(^11\) The six Main Committees are as follows: First Committee – Disarmament and International Security; Second Committee – Economic and Financial; Third Committee – Social, Humanitarian and Cultural; Fourth Committee – Special Political and Decolonisation; Fifth Committee – Administrative and Budgetary Matters; Sixth Committee – Legal. Until 1993 an additional committee existed, but by GA Res. 27/223 (1993), the Special Political Committee and the Fourth Committee were merged.

\(^12\) See annex to GA Res. 33/138 (1978). See, also, J. Kaufman, United Nations Decision Making (1980) at 29: "The regional groups meet prior to each session of the General Assembly after some deliberation usually manage to come with "an agreed slate" for the President of the GA, for its vice-presidents and for the each of the chairmen of the Main Committees."
Vice Presidents and Main Committee Chairmen form the General Committee, which serves as the General Assembly's steering committee. General Assembly positions are distributed as follows:

- In the election of the General Assembly's President (who serves as chair of the General Committee), regard shall be had for equitable geographic rotation of this office among the African, Asian, Eastern European and Latin American Groups, and WEOG.

- The six chairmen of the General Assembly's Main Committees (all of whom serve on the General Committee), shall be elected thus: one from the African Group; one from the Asian Group; one from the Eastern European Group; one from the Latin American Group; one from WEOG; and one chairmanship to rotate according to a predetermined pattern.

- The twenty-one General Assembly Vice-Presidents (all of whom serve on the General Committee, although the region which fields the General Assembly's President has its allocation reduced by one) shall be elected as follows: six from the African Group; five from the Asian Group; one from the Eastern European Group; three from the Latin American Group; two from WEOG; and, one from each of the permanent members of the Security Council.

- The six Main Committee Bureaux each consist of five members, and each regional group must be represented in the Bureau of each Main Committee.

- The President chooses the Credentials Committee on the basis of the regional group system.

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13 See Rule 38 of the General Assembly's Rules of Procedure. The General Committee's role is described in the New Zealand Ministry of Foreign Affairs' United Nations Handbook (1999) (the "UN Handbook") at 23 as follows: "The General Committee considers the provisional agenda and the supplementary list, considers requests for the inclusion of additional items on the agenda, allocates items to committees ... It assists the President in drawing up the agenda for plenary meetings, determining the priority of agenda items, coordinating the proceedings of the committees, and in the general conduct of the work of the Assembly which falls within the President's competence."


15 See paragraph 3 of annex to GA. Res 33/138 (1978).


17 With respect to the six Main Committee Bureaux, Rule 103 of the General Assembly Rules of Procedure provides that: "Each Main Committee shall elect a Chairman, two Vice-Chairmen and a Rapporteur. These officers shall be elected on the basis of equitable geographical distribution, experience and personal competence". GA Res. 52/163 (1997) amended Rule 103, increasing the number of Vice-Chairmen to three and stipulating that "all regional groups should be represented in the Bureau of each of the Main Committees."
Both of the General Assembly's standing committees, the Advisory Committee on Administrative and Budgetary Questions and the Committee on Contributions are selected on the basis of "broad geographical representation", which is taken to mean that positions are allocated on the basis of the regional group system.  

Representatives on the subsidiary and ad hoc bodies of the General Assembly are selected on the basis of the regional group system, including the Committee on Conferences and the Committee on Relations with the Host Country.

Expert bodies of the General Assembly are selected on the basis of the regional group system, including the International Law Commission (ILC) and the UN Commission on International Trade Law (UNCITRAL).

2.9 Even where the constituent document of a non-plenary body does not stipulate that its membership shall be conducted in accordance with the regional group system, the system is, nevertheless, generally assumed to apply in the President's choice of nominees. As Simma notes:

18 Although General Assembly Rule of Procedure 28 does not actually specify that the Credentials Committee is appointed on the basis of the regional groups, in practice it seems this is what normally occurs so as to ensure all regions are represented. See also Simma at 377.

19 This is provided for in General Assembly Rules of Procedure 156 and 159, respectively. See also UN Handbook at 24-5.

20 Established by GA Res. 3351 (XXIX) (1974), the Committee on Conferences "recommends to the Assembly the draft calendar of conferences and meetings .... It is also mandated to recommend the best use of conference servicing, resources, advise on current and future requirements, and monitor the Organisation's publications policy." See Id. at 26. GA Res. 43/222(B) (1988) expanded the Committees' membership to 21 as follows: six from the African Group, five from the Asian Group, four from the Latin American and Caribbean Group, four from WEOG, and two from the Eastern European Group.

21 The Committee on Relations with the Host Country is authorised to "deal with any questions of security of missions accredited to the United Nations and the safety of their staff, the responsibilities of such missions, and issues relating to diplomatic parking." The Committee has 14 members other than the host country the subject of any discussion, and they are selected by the General Assembly President from regional groups. See Id. at 29.

22 Article 9.1 of the ILC Statute provides for elections to take place on the basis of the Regional group system: "Those candidates, up to the maximum prescribed for each regional group, who obtain the greatest number of votes and not less than the majority of the votes of the Members present and voting shall be elected." (Text, as amended by GA Res. 36/39 (1981).) GA Res. 36/39 (1981) expanded the ILC's membership to 34 on the following basis: eight from the African Group, eight from WEOG, seven from the Asian Group, six from the Latin American and Caribbean Group, four from the Eastern European Group, with one national rotating among the African and Eastern European Groups, and one national rotating among the Asian and Latin American and Caribbean Group. See Id. at 43; Simma at 269. The ILC is charged with encouraging "the progressive development of international law and its codification".

23 UNCITRAL is involved in the promotion of the progressive harmonisation and unification of the law of international trade. GA Res. 2205 (XXI) (1966); GA Res. 3108 (XXVIII) (1973); and, GA Res. 31/99 (1976) stipulate that members of UNCITRAL shall be elected according to the regional group distribution specified in those resolutions. See Id. at 45-6.
“Whenever a resolution constituting the legal basis for the creation of that committee does not contain a formula for its composition, the President chooses the members according to the principle of ‘equitable geographical representation.’ Often this process of selecting members requires long and tedious consultations with all regional groups.”

2.10 Thus, a UN Member which is not a Member of a regional group is effectively prevented from fielding candidates for many of key General Assembly positions.

† ECOSOC and Subsidiary Bodies

2.11 ECOSOC, a principal organ of the United Nations, is charged with responsibility for, *inter alia*, conditions of economic and social progress and development, health, international cultural and educational cooperation, and human rights and fundamental freedoms. Membership of ECOSOC is subject to the regional group system, its 54 members being elected according to a fixed distribution among regional groups. Elections to ECOSOC’s bureau are also based on the regional group system, as are elections to many of its subsidiary bodies, including the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. A UN Member which does not belong to the regional group system is effectively prevented from being appointed to ECOSOC positions, both at plenary and non-plenary level.

24 See Simma at 377.
25 Article 55, UN Charter.
26 See paragraph 4 of GA. Res 2847 (XXVI) (1971), which dictates that the elected places on ECOSOC shall be distributed as follows:
   (a) Fourteen members from the African Group;
   (b) Eleven members from the Asian Group;
   (c) Ten members from the Latin American and Caribbean Group;
   (d) Thirteen members from WEOG;  
   (e) Six members from the Eastern Europe Group.
   See, also, Simma at 831-2; R. Bernhardt, 5 *Encyclopedia of Public International Law* (1981) at 310.
27 Simma at 919.
28 Established by ECOSOC Res. 5(l) (1946), the Commission on Human Rights deals with a wide variety of human rights issues. Its membership has been gradually increased and now stands at 53 (see ECOSOC Res. 1990/48). Membership is based on the regional group system: fifteen members from the African Group, twelve members from the Asian Group, eleven members from the Latin American and Caribbean Group, ten members from WEOG and five members from the Eastern European Group. See UN Handbook at 87.
29 The Sub-Commission on Prevention of Discrimination and Protection of Minorities, established by the Commission on Human Rights, is charged, *inter alia*, with the task of making recommendations concerning the prevention of discrimination and protection of racial, religious and linguistic minorities. Its original membership of twelve has been expanded and now stands at 26 (ECOSOC Res. 1334 (XLIV) of 1968). Elections are held on the basis of the regional group system. See UN Handbook at 96.
**UN Secretariat**

2.12 Geographical distribution is one of the factors to be taken into account when staff are hired for the Secretariat. Simma notes:

“The concept of equitable geographical distribution within the Secretariat is a powerful factor in the struggle for positions. It is used by states to press for a maximum number of posts in their range. It is also used to support the claims of states or groups of states to particular posts.”

Although there is no specific resolution determining how positions are to be divided in the Secretariat, successive General Assembly Resolutions have specified a "desirable range" for each UN Member on the basis of three factors: membership, contribution and population. The Secretary-General is to make every effort to maintain each UN Member at the midpoint of its desirable range. However, the regional groups are inescapably influential. In practice, regional groups prejudge selection to the exclusion of all other criteria, and there is no question of a non-member of a regional group being adequately represented in the Secretariat.

**International Court of Justice**

2.13 Like the Secretariat, geographical distribution is one of the factors to be taken into account when selecting members of the ICJ. Since the early 1950s, a gentleman's agreement has operated which dictates that of the fifteen judges, five are selected from the permanent representatives to the Security Council, the remaining ten places being distributed among the regional groups. Article 9, ICJ Statute, states:

“At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of

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30 Article 103, UN Charter, states: "The paramount consideration in the employment of staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible."

31 Simma at 1060.

32 Simma explains: "Despite the provision in Art. 2 of the Statute that candidates shall be elected regardless of nationality, a national of each of the five permanent members has always been elected .... With regard to the remaining ten judges, a practice has developed according to which the political and regional groups in the GA support candidates of their number. Fluctuations and changes in the number of seats belonging to one region or the other are possible if no agreement has been reached with the groups or if new situations occur in the course of the consecutive ballots in the GA and the SC ...." Simma at 993. See, also, S. Rosenne, *The World Court* (1995) at 55-6.
civilization and of the principal legal systems of the world shall be assured.”

A UN Member excluded from the regional group system cannot, therefore, field a candidate for election for the ICJ, no matter how well qualified, unless such a candidate has the support of a regional group.33

UN Funds, Programmes and other Bodies

2.14 The members of governing bodies of a number of UN funds, programmes and other bodies are selected on the basis of “equitable geographical distribution”, which has meant selection via the regional group system, quotas being specified in some cases. Significant funds and programmes which carry out elections for executive positions via the regional group system include the UN Children’s Fund (UNICEF)34, the UN Development Programme (UNDP)35 and the UN Environment Programme (UNEP)36. A UN Member excluded from the regional group system cannot, in practice, field candidates for elections in relation to these kinds of UN bodies.

UN Conference Bureaux

2.15 According to current procedure, international conferences held under the auspices of the United Nations elect a bureau to function as the governing body. In general, members of a conference bureau are elected on the basis of the regional group system, effectively preventing the appointment of candidates of non-regional group members to conference bureaux.

UN Treaty Bodies

2.16 The regional group system is often used as a means of selecting candidates for bodies established under UN treaties: for example, the Commission on the Limits of the Continental Shelf, both established under

33 Thus, Israel, despite recognition of the Hebrew legal system as one of the great classical legal systems (see A. Eyffinger, The International Court of Justice 1946 - 1996, Official Commemorative Volume (1996) at 186 - 191 ("The Hebrew Legal Tradition")), and despite having produced a number of eminently qualified international legal jurists, has never been represented on the ICJ.

34 UNICEF is charged with providing assistance, particularly in developing countries, in the development of child welfare and health services. In accordance with GA Res. 48/162 (1993), the Executive Board of UNICEF comprises 36 members based on equitable geographical distribution as follows: twelve members from WEOG, eight members from the African Group, seven members from the Asian Group, five members from the Latin American and Caribbean Group and four members from the Eastern European Group. See UN Handbook at 179.

35 UNDP "administers and coordinates most of the technical assistance provided through the UN system" and assists countries in their efforts to achieve sustainable human development. According to GA. Res 48/162 (1993), its Executive Board comprises 36 members selected on the basis of regional groupings with the same distribution of seats as applies to UNICEF (see above). See Id. at 182-3.

36 Established by GA Res. 2997 (XXVII) (1972), UNEP is mandated to promote the care and protection of the global environment. Its Governing Council, which consists of 58 members, is elected on the basis of equitable geographical distribution, i.e., positions are divided among the regional groups. See Id. at 185-90.

A UN Member excluded from the regional groups is effectively prevented from participating in elections for places to such bodies.

- **Specialised Agencies**

2.17 Regional groups (or a variation of) are central to the work of UN Specialised Agencies. Most UN Specialised Agencies have adopted a variation of the regional group system for distribution of elected places on key committees (e.g., the International Labour Organisation (ILO), the International Telecommunications Union (ITU), the World Intellectual Property Organisation (WIPO)). As in the United Nations itself, regional groups are also central in these Agencies to the conduct of policy discussions and information flows. An Agency Member excluded from the Agencies' regional group system finds itself in the same position as in the United Nations itself: namely, excluded from proper participation in the Agency in question. Israel has been allowed to join the regional group systems operating in some UN Specialised Agencies, but has been excluded from others. For example, Israel is part of the European regional group in the World Health Organisation (WHO) and, consequently, plays a normal role in this Agencies' processes. On the other hand, the situation in many other Specialised Agencies is unsatisfactory. Israel has been (theoretically) included in the Asia-Pacific group in the ITU, but in practice is excluded, and therefore does not play a full role in relation to this organisation. A similarly unsatisfactory situation exists in the ILC. Israel has not been allowed to join any regional group in WIPO, and is thus isolated from the workings of this organisation. One would hope that when Israel's position in the United Nations itself is rectified (see below), UN Specialised Agencies will follow suit.

- **Non-UN bodies**

2.18 Non-UN bodies also distribute elected positions on the basis of the regional group system. The Court established under the Rome Statute of the International Criminal Court will, for example, most probably operate on the basis of the regional group system, thereby effectively excluding

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37 Article 2 (1), Annex 2, UNCLOS establishes a Commission on the Limits of the Continental Shelf. The Commission consists of 21 members with expertise in geology, geophysics and hydrography. In a note dated 13 January 1997, the Secretary General affirmed that this Commission is to be set up "on the basis of equitable geographical distribution." (Note from the Secretary General, SPLOS/15, 13 January 1997.) In accordance with the Secretary General's Note, a "Note from the President" dated 13 March 1997 stipulates that the Commission is to be comprised of five members each from the African and Asian Groups, and WEOG, four members from the Latin American and Caribbean Group and two members from the Eastern European Group.

38 The recently signed Rome Statute of the International Criminal Court provides in Article 36, Part 4, that in the election of judges to the Court, account will be taken, inter alia, of the need for "equitable geographical distribution" which means, if the term is interpreted as is normally the case, judges will be selected from amongst the regional groups.
Consultation and Negotiation

Regional groups are a prime channel for consultations on procedural matters in most UN bodies, and are the means whereby most substantive negotiations are carried on. Regional groups are also often the venue in which common positions are negotiated and formulated with respect to specific issues under discussion in the United Nations. Thus, regional group membership is necessary in order to participate in many policy discussions at the United Nations. Indeed, one of the regional group system’s main purposes is the “coordination of the positions of groups of States, especially in the decision-making process of the organizations.” Regional groups will sometimes operate in conjunction with one or more other regional group to develop policies, either through meetings involving all members of the relevant groups, or smaller inter-group meetings which develop proposals to put to the full regional groups. Regional group membership is also important for accomplishing many policy-related tasks in the UN process, such as “initiating items on the agenda, the structuring of debates, proposals and the modification of resolutions, or other bargaining activities ...”

The regional group system renders many of the deliberations within plenary and non-plenary sessions a formality, the result having been predetermined by discussion and negotiation within and between regional groups. Discussion within the regional group often replaces formal deliberations in open session. This is especially the case in the UN plenary, the General Assembly, where large UN membership is regarded as making preliminary caucusing essential on many issues. The situation has been exacerbated by the limitations necessarily introduced at plenary/non-plenary level, such as half-hour limits on speech making and limitations on the right to reply, which make prior meetings and regional deliberations more important, and leads to, for example, presentation of a "group position" by the co-ordinators of the groups.

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39 Petersen at 295. This is often the case in, for example, the Human Rights Commission.
40 To this end, the Latin American and Caribbean Group has held, for example, regular weekly meetings in which member states formulate common positions and draft proposals, co-ordinate voting strategies to ensure the defeat or passage of proposals brought before UN bodies and select candidates from amongst the group’s member States which will be supported to fill vacant posts within the organisation. See S. Bailey, United Nations: A Concise Political Guide (1994) at 39.
43 Petersen at 31-39.
2.21 Overall, a UN Member excluded from the regional group system is prevented from participating in many UN discussions, and is isolated from UN processes.

- **Influence and Standing**

2.22 Regional groups increase a UN Member's bargaining power through its association with a voting bloc, and are a means of cultivating the support of like-minded Members. Although policies must be decided upon unanimously, the groups give the opportunity to persuade and influence; and drafting committees can often work out compromise solutions. Members are raised to a higher status when they become their group's representative in a UN organ. The Member may become an intermediary between the organ and the group, transmitting information and ideas in both directions and acting as a spokesperson. Similarly, once elected to a UN body on behalf of a regional group, a Member represents all Members of his group, and this allows all Members in that group to influence proceedings in that relevant body.\(^{44}\) Thus, for example, UN conference bureau members are elected from regional groups, and represent their members by proxy. A UN Member excluded from the regional group system has its influence and standing greatly diminished.

- **Information and Communication**

2.23 Regional groups are the central channel via which information is distributed from UN bodies, including the Secretariat, to Members, and vice-versa. Equally, inexperienced delegates, or those lacking knowledge on specific issues, find regional groups beneficial places to obtain advice and information. In addition, the regional group provides a useful forum for the exchange of information and positions between UN Members inter se.\(^{45}\) States which are members of a regional group thus have wider and more efficient access to information relating to the activities of the United Nations. By contrast, a State which is excluded from the regional group system is denied the same capacity to communicate with other States and with UN organs and bodies via the regional group system.

- **Administrative Arrangements**

2.24 Certain common features in the administration of regional groups can be identified, as follows: (i) in order to caucus effectively, most regional groups have adopted a two-tier system whereby delegation heads meet to select candidates and discuss important issues, while lower-level

\(^{44}\) Schermers & Blokker at 214.

\(^{45}\) Wolfrum at 75: "By way of meetings, members are provided with information about the issues and policy preferences of other members."
committees investigate and develop proposals and tactics on assigned issues; (ii) meetings once a week or fortnightly during sessions of the General Assembly and less frequently at other times of the year; (iii) established systems for rotating chairmanships; and, (iv) operation by consensus.\footnote{Bailey (1960) at 29.}
3. **SOVEREIGN EQUALITY IN THE UNITED NATIONS**

3.1 The principle of sovereign equality is fundamental to the UN Charter, and is affirmed both in the Charter’s introduction and in Chapter I of the Charter, entitled “Purposes and Principles”. The Charter declares: “We the peoples of the United Nations determined ... to reaffirm faith ... in the equal rights ... of nations large and small.”

This principle is incorporated in the Charter by Article 2:

"The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

1. The Organization is based on the principle of the sovereign equality of all of its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter."

3.2 Both the ICJ and commentators on the Charter have acknowledged the importance of Article 2.1 in the Charter’s structure. In the Aerial Incident case, the Court noted that: “The equality of rights and obligations is, unless otherwise expressly provided, a fundamental feature of the Charter.”

Writing 10 years later, Goodrich, Hambro and Simons observed that Article 2 “is of fundamental importance in the total economy of the Charter. It lays down basic principles which the Organization, functioning through various organs, must respect.”

What rights and obligations flow from Article 2 generally and from Article 2.1 and 2.2 specifically in a UN context?

3.3 Article 2 refers to both the “Organisation” and its “Members”, and thus imposes obligations on both UN Members, that is: on States, and on the United Nations itself (including its components, such as the Secretary-General and Secretariat), an organisation having international legal personality and therefore a subject of international law. Thus, when pursuing Charter purposes, which are set out in Article 1, both the United Nations and its Members are obliged to act in accordance with the principles set out in the sub-paragraphs of Article 2. A concomitant of the creation of obligations is the creation of opposing rights; just as Article 2

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47 UN Charter preamble, 6 June 1945, UNCIO XV, 335.
48 Aerial Incident, ICJ Reports (1959) 177.
imposes duties on the United Nations and its Members, UN Members are entitled to the rights which flow from the principles set out in Article 2.

3.4 The principle of sovereign equality is set out in Article 2.1, and is therefore the first of the Article 2 principles from which rights and duties are derived in relation to both the United Nations and its Members. The principle of sovereign equality is a well-established and basic principle of international law. It is affirmed not only in Article 2.1 of the UN Charter, but also a number of other multilateral instruments, including the Charters of the Organisation of American States\(^5\) and of the Organisation of African Unity.\(^5\)

3.5 Article 2.2 expressly places the obligation on UN Members: "to ensure to all of them the rights and benefits resulting from membership".

3.6 Commentators generally agree that sovereign equality refers to the notion that States, as members of the international community, are equal to each other as subjects of international law.\(^5\) This equality is not equality of power, territory or economy: States are, by their nature, unequal as regards their territorial, financial, military or other characteristics. Rather, this equality is as members of the international community, whatever the differences between States. Thus, sovereign equality refers to the legal equality of States, as opposed to political equality, and is often described as "juridical equality", i.e., equality before the law; in the case of States, international law.

3.7 That the principle of sovereign equality should be equated to juridical equality in a Charter context is made clear by the UN General Assembly's Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, which in this regard "is part of the constitutional law of the United Nations, and should be read as a whole and with the Charter itself."\(^5\) The Declaration describes the elements of sovereign equality as follows:

"All States enjoy sovereign equality. They have equal rights and duties and are equal members of the

50 Article 6 (UNTS, 119 at 49).
51 Article III.1; 2 ILM (1963) at 766.
international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

(a) States are juridically equal;

The Declaration’s elaboration of sovereign equality reflects the report of the technical committee advising on the drafting of the Charter at San Francisco in 1945, which noted that sovereign equality includes, amongst other things, the concept “that States are juridically equal.”

3.8 The consequences of the juridical equality of UN Members are both explicit and implicit in the Charter. An obvious consequence of juridical equality, that of “one State, one vote”, finds consistent expression in the voting rights afforded UN Members in the Charter in elections to principal organs. A second consequence, that of the “equality of votes” of UN Members, finds expression in the voting rights afforded UN Members in the General Assembly, ECOSOC and the (now suspended) Trusteeship Council; in these bodies, UN Members’ votes have equal weight.

- Participation -

3.9 A third implied legal consequence of sovereign equality in a Charter context is the principle of “participation” of all UN Members in UN processes. As explained at paragraph 2.7, above, the General Assembly, the United Nation’s plenary organ, is empowered under the Charter to discuss all matters relevant to the United Nations. Moreover, the General Assembly has important administrative powers, including adopting the organisation’s budget, setting the scale of subsidiary organs, electing their members and establishing UN programmes. In this body, any UN Member is therefore theoretically able to participate in the wide-ranging discussions that take place, and vote on all matters put to a ballot.

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55 UNCIO, Documents, VI, 457.
56 The principle of “one state, one vote” is reflected by the Charter as follows:
  - General Assembly: “Each member of the General Assembly shall have one vote.” (Article 18)
  - Security Council: “Each member of the Security Council shall have one vote.” (Article 27)
  - ECOSOC: “Each member of the Economic and Social Council shall have one vote.” (Article 67)
  - Trusteeship Council (now suspended): “Each member of the Trusteeship Council shall have one vote.” (Article 89)
Although General Assembly resolutions are not binding on UN Members, they are highly influential: they may, for example, set UN policy and work agendas, or articulate customary international law. Thus, UN membership affords UN Members a right to participate, through the General Assembly, in all UN processes.

3.10 This right to participate in UN processes is underpinned by the Charter provisions on voting rights in the General Assembly, which strictly adhere to the "equality of votes" principle. Under Article 9, every UN Member is accorded one seat in the General Assembly, which that Member is allowed to fill with not more than five representatives. As noted above, each member of the General Assembly is entitled to one vote. Thus, the votes of UN Members in the General Assembly have identical legal effect: the UAE's vote has, for example, the same legal effect as that of the United States, despite the obvious and inherent imbalances in political, economic and military power.

3.11 The importance of the right to participate in UN processes is emphasised by the voting system used in the Security Council, a body from which Israel is excluded by reason of the regional group system. In this body, the five permanent members - the United States, the United Kingdom, Russia, France and China - hold a veto over Security Council votes, a right not afforded the (now) ten non-permanent members. Thus, permanent member votes hold more legal weight than non-permanent member votes. But this voting system is tolerated in the Security Council because of the unswerving adherence to the "equality of votes" principle in the General Assembly. It seems to be suggested that the quid pro quo of the Security Council voting system lies in the strictly equitable arrangements that should exist in the General Assembly, the forum which facilitates UN Member participation in UN processes. In fact, Israel has been excluded even from full participation in General Assembly processes through its exclusion from the regional group system.

57 Article 9 of the UN Charter states:

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

58 See Article 27, UN Charter.

59 As Klein notes at 127:

"The General Assembly became the nucleus of a democratic community of equal states. In this organ all members were on an equal footing. Each had one vote - its power no longer weighing in the balance."
3.12 A fourth consequence of sovereign equality in a UN context is that of representation; or, as it frequently described in a Charter context, "equitable geographical representation." This principle is referred to expressly in the Charter itself,\(^60\) as well as several other instruments formulated under the Charter,\(^61\) and also in various UN resolutions dealing with elections to non-plenary bodies.\(^62\) Despite limited references to the "equitable geographical representation" principle in the Charter, UN Members and commentators agree that the Charter implicitly affords the principle of "equitable geographical representation" universal application in UN elective and/or allocative contexts, unless Members otherwise agree.\(^63\)

3.13 Clearly, "equitable geographical representation" does not refer to the right actually to sit in all UN bodies: aside from the General Assembly, the Charter does not provide for full UN membership of any principal organ; nor would the UN be able to operate efficiently if that were the case. Instead, the principle must refer to a right to representation through geography in a way that is equitable. Despite the amorphous nature of regional groups (as discussed in paragraphs 4.8 - 4.9, below), UN

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\(^{60}\) The following provisions of the Charter refer to the principle of "equitable representation":

- Charter Article 23 states that in choosing non-permanent members of the Security Council, due regard, shall be paid, *inter alia*, to "equitable geographical distribution."

- Charter Article 101 states that in the selection of staff for the UN Secretariat, "Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible."

\(^{61}\) Other UN instruments which refer to equitable representation include:

- Article 9 of the ICJ Statute states in relation to the selection of judges that, "... electors shall bear in mind ... that in the body as a whole the representation of the main forms of civilization and the principal legal systems of the world should be assured."

- Articles 31 and 38 of the General Assembly's Rules of Procedure state that the selection of members of the General Committee should be carried out so as to ensure its "representative character."

\(^{62}\) See Section 2, above, and Annex IV. For example, Annex II of the UN Convention on the Law of the Sea states at Article 2 that in electing members of the Commission on the limits of the Continental Shelf, States Parties must have "due regard to the need to ensure equitable geographical representation."

\(^{63}\) See, for example, Iran's representations to the General Assembly's Special Political Committee during the debate in 1963 on enlargement of, and use of regional group voting in relation to, the General Assembly's General Committee and ECOSOC (see A/SPC/18/SR.425 para. 26):

"The decisions of the United Nations [will] be respected and its actions justified only if Member States [are] convinced that the Organization [is], in accordance with the provisions of Article 2.1 of the Charter, based on the principle of the sovereign equality of all its Members ... it [is] difficult to see how fifty-odd Member States could feel that its decisions [are] just if they [are] not adequately represented in its various bodies ... All [Member States] have the obligation to contribute to the maintenance of world peace and security and, by the same token, the right to participate in the work of the bodies entrusted with that task."

See also Rosenne at footnote 32, above.
Members have settled on the election of representatives from "regional groups" as a method of distribution for elected places which achieves "equitable geographical representation". Thus, Goodrich, Hambro and Simons observe that, "There has been a tendency on the part of many members to interpret the term 'geographical distribution' as meaning 'regional representation'." 

3.14 Does distribution of elected places on the basis of the regional group system comply with the obligations imposed on the United Nations and its Members pursuant to the principle of "equitable geographical distribution"? As noted above, Article 2.1 requires that UN Members be treated equally at law. Thus, voting based on regional groups could, theoretically, satisfy the requirements of "equitable geographical distribution"; but only if all UN Members, without exception, are able to participate in the system equally, i.e., all UN Members must be included in, and participate equally in, a regional group. Anything less, and an excluded Member is not, in fact, being accorded equality before the law. Such a Member cannot have its representatives elected to positions on organs where voting based on regional groups is used; nor can it have its views represented by association with a regional group whose representatives sit on that organ. In other words, exclusion from the regional group system denies a UN Member a right of membership, that is, representation, placing the United Nations in breach of Article 2.1.

☐ Non-Discrimination

3.15 Although there is no express reference in the Charter to the duty of non-discrimination, a fifth implied legal consequence of the Article 2.1 sovereign equality obligation is a rule of non-discrimination. This duty is a corollary of juridical equality. Discrimination arises where those who are in all material respects the same are treated differently. According to the International Law Commission (ILC), non-discrimination is a "general rule which follows from the equality of States" and a "general rule inherent in the sovereign equality of States." The ILC has also referred to States being "bound by the duty arising from the principle of non-discrimination" and being under a "general duty not to discriminate between States."

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64 Goodrich, Hambro and Simons (1969) at 199.
65 See, for example, Oppenheim, 9th ed at 378. On this point, Oppenheim refers, inter alia, to Italy v Commission [1963] ECR 165, 178.
66 YBILC, 1958, ii at 105.
67 YBILC, 1961, ii at 128.
69 Id. at 24.
3.16 Exclusion of one member from an essential part of the workings of an international organisation in which all other members are entitled to participate is a crude breach of the rule on non-discrimination. Discriminatory exclusion of a UN Member from the regional group system therefore places the United Nations in breach of Article 2.1.
4. ISRAEL AND THE REGIONAL GROUP SYSTEM

4.1 Of the 185 States Members of the United Nations, only three were not members of a regional group as at 31 May 1999: Palau, Estonia, and Israel. However, only Israel has been actively excluded from the system, despite persistent attempts to join. While the United States is not a formal member of any regional group, "it attends meetings of WEOG as an observer and is considered a member of the group for electoral purposes." Therefore, the United States enjoys fully the benefits of the regional group system. In any event, as a permanent member of the Security Council, the United States has considerable influence over UN affairs. Estonia, by choice, is not a member of a regional group by choice: it has elected not to participate in the Eastern European Group in the hope that it may be accepted into WEOG, but can instead join the Eastern European Group if it wishes.

4.2 As discussed, above, Article 2.1 requires that the United Nations and its Members, in pursuit of the Charter's Article 1 principles, act in accordance with, inter alia, the principle of sovereign equality. Thus, analysis of compliance with Article 2.1 requires consideration of the following issues:

- Have the United Nations and its Members pursued the purposes Stated in Article 1 in the entrenchment and formalisation of the regional group system in the United Nations?

- If so, during this process, have the United Nations and its Members accorded all Members, including Israel, the juridical equality to which they are entitled?

4.3 The Charter's Statement of purposes, as set out in Article 1, includes the maintenance of international peace and security, the development of friendly relations among nations, the strengthening of universal peace, international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and harmonising the actions of nations in relation to any of these ideals. Ultimately, institutionalisation of the regional group system is intended to ensure the efficacious operation of the United Nations, and thus both the United Nations and its Members must be considered to have acted in pursuit of Charter purposes in relation to their adoption and formalising of the regional group system. It follows that in so doing, the United Nations and its Members must act in accordance with Article 2.1.

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70 UN Handbook at 19.
71 Id.
4.4 In paragraphs 3.8 – 3.16, above, five legal consequences of the inclusion of the principle of sovereign equality in the Charter were identified. It is clear that Israel’s exclusion from the regional group system breaches Israel’s rights in the following ways:

- **Participation**

4.5 Israel’s exclusion from the regional group system denies it the full right to participate in the UN system. The basis of this principle was discussed in paragraphs 3.9 - 3.11, above. In contrast to all other UN Members, Israel is excluded from a forum where, as noted at paragraphs 2.19 – 2.21, above, consultations take place on procedural matters; substantive negotiations are conducted; policy positions are formulated; and policy-related tasks, like agenda setting, are accomplished. As compared to all other UN Members, Israel has a much lower level of participation in the UN system. It must be emphasised that Israel is, therefore, denied one of the rights that flows from its entitlement to juridical equality in the UN system, that is, "participation", placing the United Nations in breach of its Charter obligations.

- **Representation**

4.6 Paragraphs 3.12 – 3.14, above, and Annex IV, refer to the wide range of bodies where elected places are distributed on the basis of "equitable geographical distribution". As noted in paragraph 3.13, above, the requirement that positions within the United Nations be filled on the basis of "equitable geographical distribution" is viewed as synonymous with the selection of candidates from among member States of the various regional groups. Distribution of elected places based on regional group voting will only satisfy the principle of "equitable geographical distribution", however, if it is all-inclusive; otherwise, the system does not accord all UN Members equality before the law. This is because, as discussed in paragraph 3.14, above, the exclusion of a UN Member from the regional group system denies that Member the ability to have its own representatives elected to positions that are distributed on the basis of the regional group system; or, even, the ability to have its views represented through association with a group whose members sit on the organ in question. The excluded UN Member therefore becomes reliant on friendly States to represent its views in a variety of non-plenary organs. Israel’s exclusion from the regional group systems denies Israel the full benefits of its membership, and thus puts the United Nations in breach of the principle of juridical equality.

4.7 The position of Israel could be rectified by Israel’s admission to a regional group; but admission to a regional group is based on consensus. Israel
has argued at times that its natural home is the Asian Group, but it is not plausible that the current members of the Asian group, which include Syria, Iran and Iraq, would permit Israel’s admission. Thus, if a UN Member and its regional neighbours are hostile towards each other, the UN Member can be removed from, or denied access to, a regional group. As early as the first session of the General Assembly, China had warned the United Nations of this potential problem, noting that “there were States which belong to a given region but not necessarily to a particular group in that region.” If it were interpreted that “any vacancy ... should always be filled by another member of the same group or region,” the consequences would be that some States “would always be excluded from obtaining a place on the Council.” This would “obviously be ... detrimental to the best interests of the Organization.”

4.8 Even if admission to a regional group was made compulsory, it is not clear in some cases which UN Members belong to which groups. Indeed, Israel’s exclusion from the regional group system results, in part, from the system’s failure to define the criteria for membership of any particular so-called regional group. Although five “regional” groups currently operate in the UN system, the term “regional” is a misnomer in relation to certain groups: “regionality” is not the defining concept of group membership in some cases. While the members of some groups, such as the Latin American Group, are bound together by geographic propinquity, WEOG (which, for example, includes Australia, New Zealand and Canada) is built on a composite relationship of geography and political affinity, while the Eastern European Group was tied together by historically shared ideology, as well as geography. Annex II illustrates that regional group membership is, in fact, based on an amorphous combination of geography and political affinity, with one or other characteristic being more influential in any particular group. A true regional group system would, for example, group Western and Eastern European States, just as Middle Eastern States are part of the Asian Group, while Canada and the United States would be in an “American Group,” together with the Central and South American, and Caribbean States. Australia and New Zealand would be part of the Asian Group. One commentator has suggested that regional groups are described as such “... because diplomatic tact prevents them from being

72 GAOR/1st Sess., 1st Part/5th Plen. Mtg./12 Jan. 1946/pp. 88-89. A similar point was made by the Irish delegate in the SPC debates on Resolution 1192 (XII) regarding Rules 31 and 38 of the General Assembly’s Rules of Procedure, discussed above at paragraph 7 of Annex I: “There ... appeared to be a complete disregard of the interests of the States which did not share the ideological views of the majority of States in the region in which they had been placed.” GAOR/12th Sess./SPC/80th Mtg/9 Dec. 1957/p. 170.
called, more rationally, political compromise groups with some reflection of geographical areas."  

4.9 Israel originally (and logically) believed that it was placed in WEOG under GA Res. 1992 (XII) (1957), which amended Rules 31 and 38 of the General Assembly’s Rules of Procedure (see paragraph 7 of Annex I). In the debates in the Special Political Committee which preceded the adoption of this Resolution, the Israeli delegate noted: “Many speakers had referred to the anomalies presented by the proposed fourth group, to which Israel was apparently assigned by the sponsors of the ... resolution. The origin of that assignment was obviously political and not geographical.” Commentators of the day took the same view. In 1960, Bailey noted, for example, that: “Resolution 1192 (XII) refers to "other States"; the four older Commonwealth countries and Israel are presumably covered by this expression.” Goodrich, Hambro and Simons took this view in 1969: “Other States’ is the term used to cover such members as Australia, Canada, Israel, New Zealand and South Africa.”

4.10 Despite the obvious political affinities which qualify Israel for admission to WEOG, Israel was not invited to take up its position in WEOG. It can do nothing (and remains unable) to correct the situation because there are no rules for inclusion (or exclusion) whereby it could qualify for admission in any regional group. Moreover, there are no actual criteria which dictate whether it belongs in WEOG or another regional group. Ironically, the potential for this problem had, in fact, been identified in the debates in the Special Political Committee over GA Res. 1192 (XII) (regarding Rules 31 and 38 of the General Assembly’s Rules of Procedure - see paragraph 7 of Annex I), where a number of States noted that it was not clear in which groups certain States belonged, a problem which especially affected WEOG.”

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73 Hovet at 33.
74 GAOR/12th Sess./SPC/82th Mtg/10 Dec. 1957/p. 179.
75 Bailey (1960) at 41. See, also, E. Shweib, 59 (1965) AJIL 834 at 854-5; “[Resolution 1192 (XII)] was apparently intended in 1957 to cover members of the pre-1947 British Commonwealth and, possibly, Israel.”; M Whiteman, 13 Digest of International Law (1968) at 371-2.
76 Goodrich, Hambro and Simons (1969) at 199.
77 For example, the UK delegate stated in these debates that: “... the expression ‘other States’ might become quite meaningless in a few years’ time.” GAOR/12th Sess./SPC/82th Mtg/10 Dec. 1957/p. 183. The French delegate observed that he was: “... very puzzled by the term ‘Western European and other countries.’” It was obviously not a geographical term since it apparently included such countries as ... [France] ... and Canada, New Zealand and the Union of South Africa.” GAOR/12th Sess./SPC/80th Mtg/9 Dec. 1957/p. 169. Later, the French delegate stated that the group ‘Western European and other countries’ "... bore no relation to the facts ... " and that it "... was an invention of the sponsors of the ... resolution." GAOR/12th Sess./SPC/80th Mtg/9 Dec. 1957/p. 171. This point was again made forcefully by the UK delegate during the subsequent General Assembly debate: “... the intention of the sponsors of this ... resolution is that the phrase ‘other states’ should cover those members of the Commonwealth..."
Non-discrimination

4.11 As noted in paragraph 3.15, above, the rule of non-discrimination flows from the right of juridical equality. Although Israel is formally a member like any other, Israel is treated differently from all other UN Members through its exclusion from the regional group system. There are no extenuating factors justifying this discrimination; nor has Israel agreed to this discrimination. Such discrimination prevents Israel enjoying the full benefits of its membership and places the United Nations in breach of the Charter.

which are not included in any other geographical region. This attempt to lump together in a so-called "geographical" area countries which lie as far apart as Western Europe, the Pacific and North America alone shows the artificial creation of this conception. GAOR/12th Sess./728th Plen. Mtg/12 Dec. 1957/p. 582. The UK delegate made a similar point later in the General Assembly debates: "... the grouping together of 'Western European and other States' is meaningless and misleading." GAOR/12th Sess./728th Plen. Mtg/12 Dec. 1957/p. 582. See, also, the Irish delegate, who noted that: "Group (iv) was certainly unrealistic, as it did not have any fundamental unity. Ireland itself has as many ties with people outside that group as with the peoples who were arbitrarily grouped together in it." GAOR/12th Sess./SPC/80th Mtg/9 Dec. 1957/p.
5. CONCLUSION

5.1 Israel's exclusion from the regional group system places the United Nations in breach of its fundamental obligations regarding sovereign equality, and is thus illegal. Such clear and continuing illegality by the United Nations in relation to its Charter should no longer be tolerated. UN Members, however, acting alone or through the regional group system, have failed over a period of nearly five decades to take steps to remedy the situation. The United Nations, headed by the Secretary-General has, as part of its duties under Articles 2 and 2.1 of the Charter, a duty to show leadership in this matter. The United Nations, as a separate and distinct legal person from its Members, is entitled to insist on its Members' strict compliance with their obligations under the Charter. The ICJ referred to this principle in the Reparations Case:

"[there is an] undeniable right of the Organization to demand that its members shall fulfil the obligations entered into by them in the interest of the good working of the Organization." 79

5.2 It is the duty of the United Nations to ensure that steps are taken to remedy Israel's exclusion from the regional group system. The Charter require that Israel must be included in one of the regional groups. The United Nations' failure to implement this option has already had unfortunate consequences. Israel, a UN Member, has been denied the full benefits of its rights of membership; indeed, rejection of Israel from the regional group system has significantly limited its rights of membership. All UN Members should be concerned at a situation whereby the rights of one Member can be so drastically restricted.

5.3 The regional group system is an arrangement made by the Members of the United Nations, and no doubt intended to achieve the second principle and on which its Members shall act:

"All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter."

5.4 It is manifest from these provisions of principle in Article 2 that Members also bear a responsibility for the continuation of the present situation whereby one of the Members, and one only, is deprived of the possibility

79 1949 ICJ Reports at 184.
of properly partaking of the rights and benefits which the Charter intends should result from membership. It is evident too that Members are under an obligation to remedy the present situation.

5.5 Israel’s exclusion from the regional group system is unlawful; and the need now to redress it is urgent. Taking steps to end the United Nations’ breach of Article 2.1 would be consistent with the Secretary-General’s views on Israel’s exclusion from the regional group system:

Israel could do much more for the United Nations were it not for a significant obstacle: its status as the only member State that is not a member of a regional group, which is the basis of participation in many United Nations bodies and activities. I said last year that this anomaly should be rectified, and I hope it will be soon.\footnote{Secretary-General, Press Release SG/SM/6990, 12 May 1999.}

Signed \[\underline{R.Y. Jennings}\]

Sir Robert Jennings, QC

4 November 1999
ANNEX I

HISTORICAL BACKGROUND TO THE REGIONAL GROUP SYSTEM

1. In order to provide a more complete understanding of the regional group system, this annex contains brief comments on its origins.

   Rise of the Regional Group

2. Since the founding of the United Nations in 1945, UN Members have frequently coalesced in blocs for a variety of purposes. First, States associate in caucusing groups, which are based on political, economic or other affinities.¹ Such groups tend either to be improvised to deal with a particular problem, short- or long-term in character²; or longer lasting coalitions, formed in relation to recurring and significant issues in the UN system.³ Second, States have, since 1948, associated in voting groups to facilitate the "representative" and effective allocation of elected places. These groups are the forerunners of today's regional groups.

3. The origins of UN regional groupings lie in the League of Nations, where unofficial and informal caucuses, based on loose geographical and political affinities, had been formed for the division of elected places on the basis of "gentleman's agreements." Bailey observes, for example, that the co-operation of the Latin American States was "a feature of the League of Nations", and "has continued and been intensified in the United Nations."⁴ According to Petersen, other stable clusters of like-minded States also existed in the League of Nations: The United Kingdom and its Dominions, the "Little Entente" of Czechoslovakia, Romania and Yugoslavia, the more amorphous Balkan group and a loose grouping of Austria, Hungary, Italy and Germany.⁵

4. After the Second World War, clear lines of political cleavage were not immediately evident in the international community. Nevertheless, UN Members were confronted with a new set of organs and bodies, and thus devised a novel set of "gentleman's agreements", which were meant to ensure the "representative" character of UN bodies through "equitable geographical distribution" of elected places. Thus, in the first ten years or so of the United Nation's life, UN Members appropriated and mimicked the League of Nations unofficial electoral system,⁶ including the use of

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¹ Peterson (1986) at 291.
² Bailey (1960) at 29.
³ Id. at 28.
⁴ Id. at 32.
⁵ Petersen at 290.
⁶ Id. at 155.
informal voting groups. A Canadian delegate explained to the General Assembly during the debates in 1957 on Rules 31 and 38 of the General Assembly's General Committee that: "... elections in the past have, to a considerable extent, been governed by the group principle, but these groups were more or less amorphous in most cases and not rigid or made statutory...".7

By about 1950, "gentleman's agreements" operated in relation to elections for three principal UN organs (the Security Council, ECOSOC and the ICJ), important positions in the General Assembly, and other non-plenary bodies. The most famous example is the so-called "London Agreement", pursuant to which the (then) six non-permanent members of the Security Council were determined during the first decade or so of the United Nations. Supposed to operate in accordance with Charter Article 23's stricture on "equitable geographical distribution", the exact terms of the London Agreement were the subject of controversy and, at points, quite strong objection8 but it seems that the positions for the six non-permanent members were distributed on the following basis: two from the Latin American group of States, and one from each of the Commonwealth, Western Europe, Middle East and Eastern Europe Groups.9 While Security Council, ECOSOC, key General Assembly and other non-plenary positions are now subject to formal distribution agreements, the ICJ remains the subject of a gentleman's agreement on the distribution of elected places.10

During the 1950s and 1960s, the makeup of the General Assembly changed radically with the admission of, in particular, many Asian and African States.11 The Asian and African States began to form a "regional" group in the early 1950's (which later split in two in the 1970s).12 This group was inadequately represented under many of the gentleman's agreements in place, the terms of which had been agreed a decade

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7 GAOR/12th Sess./728th Plen. Mtg/12 Dec. 1957/p.589. The nature of the debates on the rules of the General Assembly's General Committee are discussed in more detail in paragraph 7, below.
8 See, for example, the statement by India: GAOR/2d Sess. 109th Plen. Mtg./3 Nov. 1947/p.750.
9 See L. Goodrich, E. Hambro and P. Simons (1969) at 197.
10 See paragraph 2.13, above.
11 UN Membership rose from 60 States in 1954 to 100 in 1960, and the Assembly shifted from being a predominantly European and Latin body to a predominantly African and Asian one. With the acceleration of decolonisation in the 1960s, the number of African and Asian States Members grew still further. See Petersen at 291-2.
12 The beginnings of the Africa and Asia group could be seen during the General Assembly debates over the Korean war in 1950, with the group truly coalescing at the Bandung Conference of 1955. See Bailey at 34. In the mid-1970s, the Asians approached the Africans and successfully engineered a change so that seats would be allocated to Africa and Asia separately. Id. at 295.
earlier. It argued, often with the support of the Eastern European\textsuperscript{13} and Latin American Groups, that new arrangements should be reached so as to secure the "representative" nature of principal UN organs, committees and bodies through "equitable geographical distribution" of elected places. The United Nations and its Members therefore came under sustained pressure to (i) increase the size of various UN non-plenary bodies, and, (ii) in some cases, renegotiate and formalise the gentleman's agreements fixing the distributive pattern of elected places on these bodies.

7. The General Assembly first considered the debate over UN organ size and seat distribution in 1957, when a Czech delegate to the General Assembly asked that the composition of the General Assembly's General Committee be placed on the agenda of the General Assembly's twelfth session (1957), "In order to prevent any possible violation of the representative character of the General Committee and to ensure for future sessions of the General Assembly a composition of the General Committee based upon the principle of the observance of equitable geographical distribution ... ".\textsuperscript{14} The General Assembly, after long and fractious debate in the Special Political Committee, proceeded to embrace this solution by amending Rules 31 and 38 of the General Assembly's Rules of Procedure, which concern the election of President and Vice-Presidents of the General Assembly, as well as the number of Vice-Presidents (Rule 31); and the size and composition of the General Committee of the General Assembly (Rule 38). These amendments, amongst other things, increased the number of General Assembly Vice-Presidents from 8 to 13 and established a fixed pattern for the distribution of their places on the General Committee to " ... ensure [the General Committee's] representative character on the basis of a balanced geographical distribution among its members."\textsuperscript{15} Places were accordingly allocated to "regional" groups, which were described in the amending

\textsuperscript{13} The Eastern European group, perceiving a US-led attack on the distribution system then in place, supported the Asian and African Group view so as to shore up its own representation in the system. \textit{Id.} at 156.


\textsuperscript{15} GA Res. 1192 (XII) (1957). The General Assembly's General Committee had first referred the issue of its representative character to the SPC on 9 October 1957 (Doc A/3695), where it was considered at five meetings between 6 - 11 December 1957. Thirteen States (twelve of which were African or Asian, and Czechoslovakia) presented a draft resolution (A/SPC/L.22 of 6 December 1957) which sought to increase the number of General Assembly Vice-Presidents, and to allocate these positions on the basis of the (then informal) regional groups. Six States (all Latin American) proposed that the draft resolution should confirm the practice of distribution of the chairmanships of the General Assembly's Main Committees on the basis of the regional groups (A/SPC/L.23 of 6 December 1957), which amendment was accepted (A/SPC/L.22/Rev. 1 of 6 December 1957, later amended as A/SPC/L.22/Rev. 2 on 10 December 1957). This document was adopted by the SPC on 11 December 1957, the SPC then recommending to the General Assembly that it adopt the resolution as it now stood (Doc. A/3781), and after inclusion of a minor role for the Commonwealth (A/L.242 of 12 December 1957), Resolution 1192 (XII) was adopted 49 to 1 (China), with 27 abstentions, including Australia, Austria, Belgium, Canada, Denmark, France, Israel, Italy, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, United Kingdom and the United States.
resolution as follows: the Latin American Group, the Eastern European Group, the African and Asian Group, the Western European and Other States Group and the Commonwealth. The resolution did not, however, specify which States belonged to which groups. Rules 31 and 38 were further amended in 1963, 1978, 1993 and 1994.\textsuperscript{16}

8. Despite misgivings that greeted the amendments to Rules 31 and 38, the General Assembly proceeded to imitate its formula of expansion and fixed distribution. The London Agreement had eventually broken down in the face of opposition from the increasing numbers of new Members who objected to the London Agreement; and in 1963 the General Assembly enlarged the Security Council and fixed the distributive process on the basis of regional groups. Initially composed of five permanent members and six non-permanent members, Resolution GA Res. 1991A (XVIII) (1963) amended Article 23(1) of the Charter so that the Security Council was enlarged to 15 by the addition of 4 non-permanent members, with the non-permanent seats distributed according to a pattern set out in the Resolution.\textsuperscript{17}

9. The same process occurred in relation to ECOSOC between 1963 and 1971. Membership of ECOSOC, originally 18, was increased to 27 by the General Assembly’s amendment to Charter Article 61.\textsuperscript{18} This Resolution also specified how the nine new places were to be distributed: Seven from the African and Asian Group; one from the Latin American States; and, one from WEOG. In 1971, the General Assembly enlarged ECOSOC to 54 places, and amended Article 61 accordingly.\textsuperscript{19} The modern pattern for geographical distribution of seats was also established.\textsuperscript{20}

10. Thus, by the mid-1960’s, a system had developed in the United Nations for the distribution of certain elected places in (what the members believed to be) accordance with the Charter principle of "equitable geographical distribution". The importance of the regional group system was formally recognised in 1971 when the Journal of the United Nations began listing their chairmen, who are now elected in each group for one calendar month.


\textsuperscript{17}See paragraph 2.6, above.

\textsuperscript{18}Resolution 1991B (1963), which came into operation on 31 August 1965.

\textsuperscript{19}Resolution 2847 (XXVI) (1971), which took effect on 12 October 1973.

\textsuperscript{20}See footnote 26, above.
### Members of the Assembly Arranged in Regional Groups

**AFRICAN STATES**
- Algeria
- Angola
- Benin
- Botswana
- Burkina Faso
- Burundi
- Cameroon
- Cape Verde
- Central African Republic
- Chad
- Comoros
- Congo
- Côte d'Ivoire
- Djibouti
- Eritrea
- Ethiopia
- Gabon
- Gambia
- Ghana
- Guinea
- Guinea-Bissau
- Kenya
- Lesotho
- Liberia
- Madagascar
- Malawi
- Mali
- Mauritania
- Mauritius
- Mozambique
- Namibia
- Niger
- Nigeria
- Rwanda
- Sao Tome and Principe
- Seychelles
- Sierra Leone
- Somalia
- South Africa
- Sudan
- Swaziland
- Togo
- Tunisia
- Uganda
- United Republic of Tanzania
- Zambia
- Zimbabwe

**ASIAN STATES**
- Afghanistan
- Bahrain
- Bangladesh
- Bhutan
- Brunei Darussalam
- Cambodia
- China
- Cyprus
- DPR. Korea
- Fiji
- India
- Indonesia
- Iran
- Iraq
- Japan
- Jordan
- Kazakhstan
- Kuwait
- Kyrgyzstan
- Laos P.D.R.
- Lebanon
- Malaysia
- Maldives
- Marshall Islands
- Micronesia
- Mongolia
- Myanmar
- Nepal
- Oman
- Pakistan
- Palau
- Papua New Guinea
- Philippines
- Qatar
- Republic of Korea
- Samoa
- Saudi Arabia
- Singapore
- Solomon Islands
- Sri Lanka
- Syrian Arab Republic
- Tajikistan
- Thailand
- Turkmenistan
- Uzbekistan
- Vanuatu
- Viet Nam
- Yemen

**EASTERN EUROPEAN STATES**
- Albania
- Armenia
- Azerbaijan
- Belarus
- Bosnia and Herzegovina
- Bulgaria
- Croatia
- Czech Republic
- Georgia
- Hungary
- Latvia
- Lithuania
- Moldova
- Republic of Moldova
- Romania
- Russian Federation
- Slovakia
- Slovenia
- The Former Yugoslav Republic
- Ukraine

**LATIN AMERICAN AND CARIBBEAN STATES**
- Antigua and Barbuda
- Argentina
- Bahamas
- Barbados
- Belize
- Bolivia
- Brazil
- Cape Verde
- Colombia
- Costa Rica
- Cuba
- Dominica
- Dominican Republic
- Ecuador
- El Salvador
- Grenada
- Haiti
- Honduras
- Jamaica
- Mexico
- Nicaragua
- Panama
- Paraguay
- Peru
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Suriname
- Trinidad and Tobago
- Uruguay
- Venezuela

**WESTERN EUROPEAN AND OTHER STATES**
- Andorra
- Austria
- Belgium
- Canada
- Denmark
- Finland
- France
- Germany
- Greece
- Iceland
- Ireland
- Italy
- Luxembourg
- Malta
- Monaco
- Netherlands
- New Zealand
- Norway
- Portugal
- Spain
- Sweden
- United Kingdom
- United States

* The USA is not a member of any regional group, but attends meetings of the Western European and Other States (WEO) group as an observer and is considered to be a member of that group for electoral purposes.

* Turkey participates fully in both Asian and WEO groups, but for electoral purposes is considered a member of the WEO group only.

**NB1** By GA res 47/1 (1992) the General Assembly considered that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership of the UN and that it should not participate in the work of the General Assembly

**NB2** On 14 September 1999 the General Assembly voted in three new member states: Kiribati, Nauru, and Tonga. We do not currently know their status in the regional group system, however we presume that they have joined, or will be joining, the Asian States group

*Diagram reproduced from New Zealand Ministry of Foreign Affairs and Trade, United Nations Handbook 1998*
### Membership of United Nations bodies

<table>
<thead>
<tr>
<th>Body</th>
<th>Creation/Role</th>
<th>Membership:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Assembly</strong></td>
<td>The General Assembly can discuss any questions or any matters within the scope of the Charter and may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.</td>
<td>Composed of representatives of all Member States, each of which has one vote.</td>
</tr>
<tr>
<td>President</td>
<td>Based on regional groups (GA Res 1990(XVIII) (1963) as amended by GA Res 33/138 (1978))</td>
<td></td>
</tr>
<tr>
<td>Vice Presidents</td>
<td>Based on regional groups system (GA Res 1192 (XII) (1967)) 20 Vice-Presidents (6,5,1,3,2 (except for the group providing the president which is allotted one less) + 1 from each of the permanent members of the security council)</td>
<td></td>
</tr>
<tr>
<td>Chairman</td>
<td>Based on regional groups (GA Res 1990(XVIII) (1963) as amended by GA Res 33/138 (1978)). Six Chairman (2,1,1,1)</td>
<td></td>
</tr>
<tr>
<td>Main Committees</td>
<td>Chairmen, Vice-Chairmen and Rapporteurs of 6 main Committees of the Assembly (Disarmament and international security; Economic and financial; Social, humanitarian and cultural; Special political and decolonisation; Administrative and budgetary matters; Legal)</td>
<td>Based on regional groups (GA Res 1990(XVIII) (1963) as amended by GA Res 33/138 (1978))</td>
</tr>
<tr>
<td>General Committee</td>
<td>Comprises the President, Vice-Presidents (21) and Chairman (6) of the Main Committees of the General Assembly. Considers the provisional agenda and the supplementary list, considers requests for the inclusion of additional items, allocates items to committees, and submits its report to the approval of the Assembly</td>
<td>Based on regional groups system (see above)</td>
</tr>
<tr>
<td>Credentials Committee</td>
<td>Examines and reports on credentials of representatives</td>
<td>9 members chosen by the Assembly on the proposal of the President</td>
</tr>
<tr>
<td>Advisory Committee on Administrative and Budgetary Questions</td>
<td>GA standing committee, established by GA Res 14A(I) (1946), which examines and reports on budgetary and financial matters</td>
<td>16 members, based on 'broad geographical representation'</td>
</tr>
<tr>
<td>Committee on Contributions</td>
<td>GA standing committee, established by GA Res 14(I) (1946), which advises on the apportionment of UN expenses</td>
<td>18 members, based on 'broad geographical representation'</td>
</tr>
<tr>
<td>Subsidiary/ad hoc Committees</td>
<td>Committee on Conferences</td>
<td>Committee on Information</td>
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<tr>
<td>-----------------------------</td>
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<tr>
<td></td>
<td>GA Res 3351 (XXX) (1974) - Recommends draft calendar of conferences and meetings; recommends the best use of conference resources; advises on current and future requirements; and monitors the Organisation’s publications policy</td>
<td>Established by GA Res 33/115C (1978) to review UN Public Information Policies and Activities</td>
</tr>
<tr>
<td><strong>Reform Working Groups</strong></td>
<td><strong>Expert Bodies</strong></td>
<td></td>
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<tr>
<td>--------------------------</td>
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<td></td>
</tr>
<tr>
<td><strong>UN Conciliation Commission for Palestine</strong></td>
<td><strong>Board of Auditors</strong></td>
<td></td>
</tr>
<tr>
<td>Established to help with the repatriation of refugees, to arrange for compensation for the property of those choosing not to return, and to assist Israel and the Arab states to achieve a final settlement of all questions outstanding between them</td>
<td>GA Res 74 (I) (1946) established the Board of Auditors to serve as external auditor of the accounts of the UN</td>
<td></td>
</tr>
<tr>
<td><strong>UN Disarmament Commission (UNDC)</strong></td>
<td><strong>International Civil Service Commission (ICSC)</strong></td>
<td></td>
</tr>
<tr>
<td>Established by GA Res 502 as a deliberate body, required to consider and make recommendations on various problems in the field of disarmament and to follow up the relevant decisions and recommendations of the tenth Special Session</td>
<td>Established by GA Res 3042 (XXVII) (1972). It is responsible for the regulation and coordination of conditions of service within the UN</td>
<td></td>
</tr>
<tr>
<td><strong>UN Scientific Committee on the effects of Atomic Radiation (UNSCEAR)</strong></td>
<td><strong>International Law Commission (ILC)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Working Group on the financing of the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)</strong></td>
<td></td>
<td>15 independent experts appointed in their individual capacities by, and answerable as a body to, the General Assembly</td>
</tr>
<tr>
<td>Established by GA Res 2656 to study all aspects of the financing of the Agency</td>
<td></td>
<td>GA Res 36/39(1981): 34 members (8,7,3,6,8) Process entrenched in ILC Statute art. 9b</td>
</tr>
<tr>
<td><strong>High-level open-ended working group on the financial situation of the United Nations</strong></td>
<td><strong>Informal open-ended working group on an agenda for peace</strong></td>
<td></td>
</tr>
<tr>
<td>The General Assembly decided in GA Res 49/143 91990 to establish the group, under the Chair of the president of the General Assembly, to consider a sound and viable financial basis for the UN</td>
<td>Active in the areas of Post-conflict Peace-building and Preventive Diplomacy and Peace-making</td>
<td></td>
</tr>
<tr>
<td>Membership of the Working Group is open to all members of the UN</td>
<td>Informal</td>
<td></td>
</tr>
<tr>
<td><strong>Informal open-ended working group on an agenda for peace</strong></td>
<td><strong>Open-ended high-level working group on the question of equitable representation and increase in the membership of the Security Council</strong></td>
<td></td>
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<tr>
<td></td>
<td>GA Res 48/26 (1993) established an open-ended working group to consider all aspects of the question of increase in the membership of the Security Council</td>
<td></td>
</tr>
<tr>
<td><strong>Advisory Board on Disarmament Matters</strong></td>
<td><strong>Advisory Committee of the UN programme of assistance in the teaching study, dissemination and wider appreciation of International Law</strong></td>
<td></td>
</tr>
<tr>
<td>A board of eminent persons to advise the Secretary-General on UN studies in the fields of disarmament and arms limitation, including a programme of such studies</td>
<td>Advises Secretary General on substantive aspects of the UN programme of assistance and exchange in the field of international law</td>
<td></td>
</tr>
<tr>
<td>Israel is on the board</td>
<td>25 members selected from regional groups</td>
<td></td>
</tr>
<tr>
<td><strong>Advisory Committee of the UN programme of assistance in the teaching study, dissemination and wider appreciation of International Law</strong></td>
<td><strong>International Civil Service Commission (ICSC)</strong></td>
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<tr>
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<td>Established by GA Res 3042 (XXVII) (1972). It is responsible for the regulation and coordination of conditions of service within the UN</td>
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<tr>
<td></td>
<td>GA Res 174(II) (1947). Encourages the development and codification of international law</td>
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</tr>
<tr>
<td></td>
<td>GA Res 174(II) (1947). Encourages the development and codification of international law</td>
<td></td>
</tr>
<tr>
<td>Committee Name</td>
<td>Establishment and Details</td>
<td>Details</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Investments Committee</td>
<td>Established by GA Res 155 (II) (1947), advises the Secretary-General on the investment of pension funds, and other trust and special funds under UN control.</td>
<td>Committee members are appointed by the Secretary-General for three-year terms. Membership stands at nine.</td>
</tr>
<tr>
<td>Joint Inspection Unit (JIU)</td>
<td>GA Res 2150 (XXI) (1966). Ensures UN activities are carried out in 'most economical manner'</td>
<td>Appointed by the General Assembly with due regard to 'equitable geographical distribution'.</td>
</tr>
<tr>
<td>Panel of External Auditors</td>
<td>Established by GA Res 1438 (XIV) (1959)</td>
<td>The membership currently stands at eight, comprising the members of the UN board of Auditors, along with the appointed external auditors of the specialised agencies and the IAEA.</td>
</tr>
<tr>
<td>UN Administrative Tribunal</td>
<td>GA Res 351A (IV) (1949) established the UN Administrative Tribunal to judge applications alleging non-observance of contracts of employment or terms of appointment of staff members of the UN secretariat.</td>
<td>The seven members of the tribunal are appointed by the General-Assembly on recommendation of the Fifth Committee for a three-year term and may be reappointed.</td>
</tr>
<tr>
<td>UN Commission on International Trade Law (UNCITRAL)</td>
<td>UN Charter Ch.IX. Promotes the harmonisation and unification of the law of international trade.</td>
<td>Based on regional groups system (GA Resolutions 2205(XXI) (1966), 3108(XXVIII) (1973), 31/79 (1976)) (9,7,5,6,9).</td>
</tr>
<tr>
<td>UN Joint Staff Pension Fund</td>
<td>Established under GA Res 248 (III) to provide, retirement, death, disability and related benefits for staff upon cessation of their services with the UN. GA Res 42/222 (1987) amended the regulations of the fund, together with the composition and size of the board.</td>
<td>Membership currently stands at 12. 5 members appointed by the Assembly, 4 by the secretary General and the remainder appointed by the participants.</td>
</tr>
<tr>
<td>Standing Committees</td>
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<tr>
<td><strong>Commission for Social Development</strong></td>
<td>Established by ECOSOC Res 10(II) (1946) to advise on social policies</td>
<td></td>
</tr>
<tr>
<td><strong>Commission on Crime Prevention and Social Justice</strong></td>
<td>ECOSOC Res 1992/1. Provides policy guidance, monitors the implementation of programmes and helps to coordinate regional institutions</td>
<td></td>
</tr>
<tr>
<td><strong>Commission on Human Rights</strong></td>
<td>ECOSOC Res 5(I) (1946): Prepares recommendations and reports concerning human rights</td>
<td></td>
</tr>
<tr>
<td><strong>Sub-Commission on Prevention of Discrimination and Protection of Minorities</strong></td>
<td>Established by CHR under ECOSOC authority</td>
<td></td>
</tr>
<tr>
<td><strong>Commission on Narcotic Drugs</strong></td>
<td>ECOSOC Res 9(II) (1946). Advises ECOSOC and prepares draft agreements relating to the control of narcotic drugs</td>
<td></td>
</tr>
<tr>
<td><strong>Commission on Population and Development</strong></td>
<td>ECOSOC Res 3(III) (1946). Advises ECOSOC on population changes and their effect on economic and social conditions</td>
<td></td>
</tr>
<tr>
<td><strong>Commission on Science and Technology for Development</strong></td>
<td>ECOSOC Res 1992/218</td>
<td></td>
</tr>
<tr>
<td><strong>Commission on Sustainable Development</strong></td>
<td>ECOSOC Res 1993/207. Monitors progress in the implementation of Agenda 21 agreed at the 1992 UN Conference for Environment and Development</td>
<td></td>
</tr>
<tr>
<td><strong>Commission on the Status of Women</strong></td>
<td>ECOSOC Res 11 (II) (1946). Reports on matters concerning the promotion of women’s rights</td>
<td></td>
</tr>
<tr>
<td><strong>Statistical Commission</strong></td>
<td>ECOSOC Res 8(II) (1946). Develops national statistics, enhances comparability, and coordinates statistical work</td>
<td></td>
</tr>
<tr>
<td><strong>Committee for Programme and Coordination</strong></td>
<td>ECOSOC Res 920 (XXXIV) (1962). Main subsidiary organ of ECOSOC and the Assembly for planning, programming and co-ordination</td>
<td></td>
</tr>
<tr>
<td><strong>Committee on Non-Governmental Organisations</strong></td>
<td>ECOSOC Res 3(II) (1946). Reports on relations between ECOSOC and NGOs</td>
<td></td>
</tr>
<tr>
<td>Organization</td>
<td>Description</td>
<td>Relevant Resolutions</td>
</tr>
<tr>
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</tr>
<tr>
<td>Office of the UN High Commissioner for Human Rights</td>
<td>Promotes and protects the enjoyment of all human rights</td>
<td>GA Res 48/141 (1993)</td>
</tr>
<tr>
<td>UN Development Fund for Women (UNIFEM)</td>
<td>Ensures appropriate involvement of women in mainstream development activities</td>
<td>GA Res 39/125 (1984)</td>
</tr>
<tr>
<td>UN Interregional Crime and Justice Research Institute</td>
<td>Promotes action-orientated research aimed at the prevention of crime and the treatment of offenders</td>
<td>ECOSOC Res 1086B(XXXIX) (1965)</td>
</tr>
<tr>
<td>UN Development Programme (UNDP)</td>
<td>Administers and co-ordinates most of the technical assistance provided through the UN system</td>
<td></td>
</tr>
<tr>
<td>UN Environment Programme</td>
<td>Promotes the care and protection of the global environment</td>
<td>GA Res 2997 (XXVII) (1972)</td>
</tr>
<tr>
<td>Expert Bodies</td>
<td>Committee on Economic, Social and Cultural Rights</td>
<td>ECOSOC Res 1988 (LX) (1976). Assists in the consideration of reports by states which are party to the International Covenant on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>Committee on Natural Resources</td>
<td>ECOSOC decision 1992/218</td>
<td>24 members from regional groups (6,5,3,4,6)</td>
</tr>
<tr>
<td>Committee on New and Renewable Sources of Energy and on Energy for development</td>
<td>ECOSOC decision 1992/218</td>
<td>24 members from regional groups (6,5,3,4,6)</td>
</tr>
</tbody>
</table>

| Trusteeship Council | The Trusteeship Council suspended operation on 1 November 1994, with the independence of Palau, the last remaining United Nations trust territory, on 1 October 1994. By a resolution adopted on 25 May 1994, the Council amended its rules of procedure to drop the obligation to meet annually and agreed to meet as occasion required -- by its decision or the decision of its President, or at the request of a majority of its members or the General Assembly or the Security Council | The Trusteeship Council is made up of the five permanent members of the Security Council -- China, France, Russian Federation, United Kingdom and United States |

| The International Court of Justice | ICJ Statute art 2: judges are to be elected 'regardless of their nationality from among persons of high moral character, who possess the qualifications required on their respective countries for appointment to the highest judicial offices, or are juriconsults of recognised competence in international law.' Art 9: court should be representative of the 'main forms of civilisation and of the principal legal systems of the world.' Rosenne ('The World Court 55-56 (1995)) and Simma (p.993) both believe that the practice has developed of electing according to the regional group system | 15 members elected for terms of 9 years. The Security Council and the General Assembly vote independently to elect members of the court |

| Secretariat and UN Staff | Staff selection involves consideration of the need for a wide 'geographical basis' UN Charter art 101(3), which is often seen as synonymous with the selection of staff from the regional groups. However, the requirement is given a subordinate position in third paragraph; and the Assembly and the former Secretary-General Tyrgve Lie have emphasised that posts should not be automatically given to a certain group (Goodrich, Hambro & Simons p.604) | |

| Funds, Programmes and Bodies of the UN | International Research and Training Institute for the Advancement of Women | ECOSOC Res 1998 (LX) (1976). Autonomous body which assists in the advancement of women | Board of trustees comprises 11 members selected by ECOSOC with 'due regard to the principle of equitable geographical distribution' |
| Joint United Nations Programme on HIV/AIDS | Promotes measures to prevent the transmission of HIV | Programme Co-ordination Board selected from regional group system. 22 Members: (5,5,2,3,7) |