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APPOINTMENT OF THE UN SECRETARY-GENERAL

Secretary-General Ban Ki-moon's first term in office is due to expire on 31 December 2011. No alternative candidate has emerged and it appears likely that the Security Council will recommend that he will be reappointed to a second term.

At this stage some key Security Council members (both permanent and elected) have publicly indicated support for Ban's reappointment. Others, including some of the P5, have not yet expressed their positions. But there is no evidence of any emerging opposition to a second term by any P5 member. This is important because of the key role played by the P5 members, any of whom may veto a decision to recommend reappointment of the Secretary-General.

There are no formal requirements for the timing of reappointment decisions. (The last reappointment decision by the Security Council was in 2001 when Kofi Annan was recommended for a second term by acclamation. This occurred on 27 June 2001 in a closed private meeting.)

This report outlines the main processes guiding the appointment of a Secretary-General and recalls a number of recent proposals for reforming the selection and appointment process. It does not traverse in detail the history of procedures for contested elections since it seems unlikely that the 2011 decision will be contested. Readers may find these details in reports by Security Council Report in 2006 in the lead-up to the appointment of the current Secretary-General:

- Special Research Report, *Appointment of a New Secretary-General* of 16 February 2006;
- Special Research Report, *Appointment of a New Secretary-General* of 21 June 2006;
- Update Report, *Appointment of a New Secretary-General* of 7 July 2006; and
- Update Report, *Appointment of a New Secretary-General: Second Ballot in the Council and Progress in the General Assembly* of 7 September 2006.

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1. The Process of Appointing a Secretary-General

The Secretary-General is elected by member states under a process outlined in Article 97 of the UN Charter and in rule 141 of the Rules of Procedure of the General Assembly and rule 48 of the Provisional Rules of Procedure of the Security Council.

Article 97 of the UN Charter states that the Secretary-General "shall be appointed by the General Assembly". In practice this is formalised through the adoption of a General Assembly resolution. Under rule 83 of the General Assembly Rules of Procedure this decision is an important question which requires a two-thirds majority.

Article 97 also requires that the General Assembly act "on the recommendation of the Security Council". Rule 48 of the Security Council's Provisional Rules of Procedure requires that the recommendation "be discussed and decided at a private meeting", unless otherwise agreed.

The decision of the Security Council to recommend a candidate to the General Assembly is traditionally taken by resolution. It is a matter of substance which, under Article 27 paragraph 3 of the Charter, requires "an affirmative vote of nine members including the concurring votes of permanent members".

Rule 141 of the Rules of Procedure of the General Assembly states that, "When the Security Council has submitted its recommendation on the appointment of the Secretary-General, the General Assembly shall consider the recommendation and vote upon it by secret ballot in private meeting". However, in practice the General Assembly often decides, by general consent, to waive balloting and adopt the resolution by acclamation.

The job description of the Secretary-General is only very briefly addressed in the Charter. Article 97 states that the Secretary-General shall be the chief administrative officer of the organisation. However, the political functions of the post have become significant over the years, in part derived from Article 99 of the UN Charter which states that "the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security".

In 1946, at its very first session, the General Assembly took the lead in setting procedures for the appointment process. In resolution 11 (I) (A/RES/1/11 in current numbering), it established ground rules for the appointment process, including outlining:

- terms of the appointment;
- that the first Secretary-General be appointed for five years, but allowing the General Assembly or Council discretion in modifying the term of office for future appointees;
- that reappointment be an option for a further five-year term;
- the required voting majorities in the General Assembly and Council;
- conditions, including restraint as to future employment; and
- procedures for appointment involving closed meetings in both the Council and the General Assembly.

Significantly, this resolution also established that "it would be desirable for the Council to proffer one candidate only for the consideration of the General Assembly, and for debate on the nomination in the General Assembly to be avoided".

Since 1946 the General Assembly has mostly played a more passive role in the process. But there have been some exceptions. In 1950, the General Assembly took a prominent role in the appointment process. After a succession of inconclusive votes in the Security Council, which was deadlocked due to vetoes, the General Assembly decided in a majority vote to extend the term of Secretary-General Trygve Lie without a recommendation from the Council.

With the exception of Trygve Lie's reappointment, the appointment of the Secretary-General has always effectively been determined by the Council and, by virtue of the veto power, the five permanent members have played a very significant role.

In 1996 and 1997 the role and the appointment of the Secretary-General emerged as an important issue in discussions of the Open-ended High-Level Working Group on the Strengthening of the United Nations System. The General Assembly adopted the Working Group's report in resolution 51/241 on 31 July 1997 and decided that:

- the General Assembly shall make full use of the power of appointment enshrined in the Charter in the process of the appointment of the Secretary-General and the agenda item entitled "The Appointment of the Secretary-General of the United Nations"; and
- without prejudice to the prerogatives of the Security Council, the president of the General Assembly may consult with member states to identify potential candidates endorsed by member states and, upon informing all member states of the results, may forward those results to the Security Council.

2. Uncontested Candidacies

As we have seen, not all reappointment decisions are uncontested. In 1950 there was controversy over Trygve Lie's reappointment. In 1996 the proposed reappointment of Boutros Boutros-Ghali was also controversial. He was eventually vetoed. But, in general, reappointments have been uncontested and in such cases the procedures have been simple and speedy. Decisions have been taken in both the Security Council and the General Assembly without complex balloting.

3. Contested Candidacies

When it is clear that an appointment is going to be contested (almost always a new appointment as opposed to a reappointment) intense campaigning usually takes place especially by lobbying the Security Council members.

Formal candidatures are usually submitted in the form of letters to the Council president containing the curriculum vitae of each candidate.

Full details of the history of processes used by the Security Council in selecting Secretaries-General are set out in our 16 February 2006 Special Research Report, *Appointment of a New Secretary-General.* But the following summary may be useful. Council consultations on the candidates begin in informal consultations. Secret straw ballots have been used to determine whether Council members encourage or discourage a candidate. This format was first used in 1981. In 1991, the practice of colour-coded ballots emerged, whereby at a certain stage in the process red ballots were cast by permanent members and white by elected members. It is important to note, however, that there is no rule requiring this specific method be employed and Council members can at any time agree upon a specific method.

The straw-ballot process means that preferences can be cast informally and privately without having an official meeting in the Council chamber or casting official votes. When straw-balloting takes place in informal meetings, the only information available to the international community comes by way of unofficial announcements by delegations or through leaks. Transparency is significantly reduced. On the other hand, Council members clearly appreciate the considerable flexibility which is available under the straw-ballot procedure. Also, there is the advantage that permanent members may perhaps find it easier to change their vote after casting a red straw ballot than after casting a formal veto in the Council chamber.

The candidate finally agreed upon by the Council is then formally recommended to the General Assembly through the adoption of a Security Council resolution (for example, resolution 1715 of 9 October 2006 which recommended the first appointment of Ban Ki-moon) and a letter is transmitted to the president of the General Assembly informing the Assembly of the Council's recommendation.

4. Confidentiality Requirements

Confidentiality provisions in rule 141 of the Rules of Procedure of the General Assembly and rule 48 of the Provisional Rules of Procedure of the Security Council require that voting and discussions on the matter be held in private. But the General Assembly has traditionally made an important modification to this provision.

Since 1946 it has become the custom, on the occasion of each appointment, for the General Assembly, on the proposal of the president, to make the appointment in an open session, rather than in a closed session as required in resolution 11 (I) and rule 141. In 1950, the only occasion in which there was a vote in the General Assembly, the meeting was open, but the vote was by secret ballot, as required by rule 141.

The appointment is then made in the form of a General Assembly resolution, such as resolution 61/3 of 31 October 2006 which appointed Ban Ki-moon to his first term, usually adopted by acclamation.

5. Criteria for Appointment: Merit/Regional Rotation/ Gender

The UN Charter provides no guidance regarding criteria for the appointment of a Secretary-General. However, on 31 July 1997, the General Assembly in resolution 51/241 endorsed conclusions by its High-Level Working Group which stated that, "in the course of the identification and appointment of the best candidate for the post of Secretary-General, due regard shall continue to be given to regional rotation and shall also be given to gender equality".

This carefully balanced decision was the result of significant negotiation in which merit ("the best candidate") was established as the primary criterion but the resolution also introduced two principles to which "due regard" must be given: regional rotation and gender equality. It is hard to read into the 1997 decision the conclusion that either of these principles should necessarily trump the other. Nor is it possible, on the language approved by the General Assembly, to claim that either of these two principles trumps the first criterion—that of "best candidate."

The issue of criteria is less relevant in the case of an uncontested candidacy for reappointment. However, for the future it seems likely that there will continue to be argument about the criteria, including on the interpretation of the words approved in resolution 51/241 and on the weight to be given to the various principles. However, what is clear is that in 1997 gender equality was elevated to the same level as regional rotation, but fourteen years later there is yet to be a female Secretary-General.

6. Timing

There are currently no requirements for a timetable for the selection process other than General Assembly resolution 51/241, which states that "in order to ensure a smooth and efficient transition, the Secretary-General should be appointed as early as possible, preferably no later than one month before the date on which the term of the incumbent expires".

It is interesting to note that in 2001 the recommendation to reappoint Kofi Annan came on 27 June 2001, when Annan still had another six months before his first term expired on 31 December 2001. This marked a divergence from the previous practice of recommending a reappointment much later in the year.

Past practice for reappointments has been as follows:

2001 Kofi Annan
Expiry of previous term: 31 December 2001
Security Council recommendation: 27 June 2001

1986 Javier Pérez de Cuéllar
Expiry of previous term: 31 December 1986
Security Council recommendation: 10 October 1986

1976 Kurt Waldheim
Expiry of previous term: 31 December 1976
Security Council recommendation: 7 December 1976

1966 U Thant
Expiry of previous term: 31 December 1966
Security Council recommendation: 2 December 1966

1957 Dag Hammarskjöld
Expiry of previous term: 9 April 1958 (Hammarskjöld's first term began 10 April 1953 following Trygve Lie's November 1952 resignation)
Security Council recommendation: 26 September 1957

1950 Trygve Lie
Expiry of previous term: 31 December 1950
Security Council recommendation: none as the Council was unable to agree on candidate

7. The 2011 Process

There is no distinction in the formal process for reappointing an incumbent Secretary-General from the process for electing a new Secretary-General.

It appears that this year it will be an uncontested election and past practice suggests the Security Council is therefore likely to dispense with the informal balloting procedures developed for contested elections. Instead, the president is likely, after taking soundings with members, to circulate a draft resolution in informal consultations and then to convene a formal closed meeting of the Council at which the resolution would be adopted by acclamation.

In this context it is instructive to analyse the process by which former Secretary-General Kofi Annan was reappointed in 2001. On 27 June 2001 the Council held a private meeting during which it adopted by acclamation resolution 1358, which recommended the reappointment of Kofi Annan for a second term as Secretary-General. A letter of the same date (A/55/999) was addressed to the president of the General Assembly informing him of the decision taken. On 6 July the General Assembly reappointed the Secretary-General by acclamation.

8. Proposals for Amending the Appointment Process

There has been debate at various points among member states on the process by which the Secretary-General is selected. There has also been much discussion and some criticism from civil society that the selection process lacks transparency, is out of touch with best practices in high-level public sector appointments in most countries and even other international organisations and needs updating.

Within the UN system, the Open-ended High-Level Working Group on the Strengthening of the United Nations System and the Ad Hoc Working Group on the Revitalisation of the General Assembly both reviewed options for reforming the process.

Interested member states have also actively proposed reforms in recent years, such as the Canadian reform initiative presented in 2006.

Two recent and significant endeavours addressing the Secretary-General's appointment are the 2010 Delphi Symposium and the 2009 evaluation of the selection process conducted by the Joint Inspection Unit (JIU) as part of the agenda on Strengthening of the United Nations System.

The Delphi Symposium held in honour of Javier Perez de Cuellar, the fifth Secretary-General of the UN, was held in Delphi, Greece on 27-30 May 2010. The symposium engaged 21 participants (including former foreign

ministers, former ambassadors and secretariat officials) in discussions on strengthening the role of the Secretary-General and improving the process of selection.

In 2009, as part of the agenda on Strengthening of the United Nations System, JIU undertook an evaluation of the legal and institutional framework and practices in the selection of the Secretary-General and other executive heads in the UN system. The report, transmitted in A/65/71 on 8 April 2010, examines conditions of service with the objective of establishing a harmonised selection criteria and ensuring the highest quality leadership and management at the executive levels. In addition to outlining the selection process, the report contains recommendations based in part on the opinions expressed by member states on the process. The report evaluates relevant and oft-debated aspects of the selection process such as transparency, criteria for candidates and timing of the selection process.

Some of the main issues raised by the Delphi Symposium and the JIU evaluation include:

8.1 Qualities and Qualifications of a Secretary-General

General Assembly resolution 60/286 of 8 September 2006 describes the criteria by which a Secretary-General should be selected. It "emphasises the importance of candidates for the post of Secretary-General possessing and displaying, inter alia, commitment to the purposes and principles of the Charter of the United Nations, extensive leadership, and administrative and diplomatic experience". No further criteria have been elaborated by the General Assembly.

The qualities necessary in an effective Secretary-General were among the main topics discussed at the Delphi Symposium. All the participants of the symposium agreed that there was an urgent need to consider the role and qualities of the Secretary-General in relation to the enormous challenges of the 21st century. Members of the group agreed that the most important qualities in a Secretary-General included:

- **integrity, independence, moral courage** and **impartiality;**
- capacity for **moral** and **intellectual as well as political leadership;**
- the **sophisticated diplomatic skills** essential for a mediator and crisis manager;
- **capacity to manage** the organisation effectively and provide leadership to the wider UN system;
- **strong problem-solving capacity** and **political instincts;** and
- **charisma** and **contemporary media skills** of a global communicator.

The participants firmly agreed that a strong and independent Secretary-General should be accepted and "even demanded" and stated that in the past it has been clear that some member states have been reluctant about the appointment of a strong and independent post holder.

The group recommended that prior to the search for a new Secretary-General, and in an effort to select the most effective candidate, **the General Assembly might commission a small group to study the challenges likely to be faced in the near future.**

The JIU evaluation noted that member states had divergent views on the issue of criteria. Some member states felt that the outlined criteria was too general and that more detailed requirements ought to be elaborated and that this would contribute to a more transparent and effective process. Others felt that adding additional requirements may cause the process to become too rigid and felt that it was important to maintain the flexibility afforded by the current criteria.

8.2 Transparency of the Selection Process

The JIU found that there was consensual understanding among member states that the selection of the Secretary-General is unique in comparison to other executive appointments given the leading role of the P5 and their right to oppose any candidate. They found that the majority of member states supported the call for increased transparency and that the process be made more inclusive of all members at an earlier phase. Many believed that the General Assembly, which represents the whole UN membership, should be more involved in identifying candidates at an early phase and ought to hold formal hearings or meetings with candidates.

The current selection process practice had been the subject of debate among member states in the Open-ended High-level Working Group on the Strengthening of the United Nations System. General Assembly resolutions 51/241 and 60/286 address some these issues by:

- emphasising, "bearing in mind the provisions of Article 97 of the Charter, the need for the process of selection of the Secretary-General to be inclusive of all Member States and made more transparent and invites the Security Council to regularly update the General Assembly on the steps it has taken in this regard";

- encouraging, "without prejudice to the role of the principal organs as enshrined in Article 97 of the Charter, the President of the General Assembly to consult with Member States to identify potential candidates endorsed by a Member State and, upon informing all Member States of the results, to forward those results to the Security Council"; and
- encouraging, "formal presentation of candidatures for the position of Secretary-General in a manner that allows sufficient time for interaction with Member States, and requests candidates to present their views to all States members of the General Assembly".

According to the JIU report, while many member states strongly support the call for increased transparency in the selection process, other members believe that a more transparent process may not necessarily lead to a more credible one and may hamper the decision-making process. These states expressed that in practice most of the candidates aspiring for the position are already known within the diplomatic community and as such, increased transparency is not a major concern.

The report also found that many member states supported the idea of **holding hearings with candidates in the General Assembly** to allow members to interact more closely with prospective appointees, so long as this occurred in compliance with the roles of the principle organs outlined in Articles 7, 27 and 97 of the UN charter. Utilising such a forum was one of the recommendations proposed by the JIU report.

The participants of the Delphi Symposium also stressed that the selection process ought to be more transparent and that the General Assembly should be involved in a more active way and at a much earlier stage. It was suggested that, in the interest of respecting the independence and authority of the General Assembly, **the Council should consider forwarding more than one name to the General Assembly for its selection.**

Delphi participants generally agreed that in order for the best candidates to emerge, **a search and screening process was desirable,** such as establishing an international committee of distinguished and experienced persons set up by the Council to identify and interview candidates or having the Council consult with representatives of regional groups. The group generally felt that formal nominations should only be made by sovereign governments and individual campaigns, even if supported by a government, did not contribute to an effective selection process. It was also agreed that **more effort should be made to include women among candidates** for consideration.

8.3 Timeline for the Selection Process

Some UN agencies have already reformed their selection procedures. (These include: the IAEA; the International Labour Organisation; the UN Educational, Scientific and Cultural Organisation; the UN Industrial Development Organisation; the World Health Organisation; and others.)

The JIU inspectors found that there are varying perspectives on the matter of timelines among member states. Some feel that the adoption of clear timetables would be advisable as this would minimise the possibility of having a Secretary-General's mandate expire before a replacement has been appointed. Alternatively, others argued that clear timetables are not necessary as member states are aware of the terms of office and that the flexibility of the selection process ought not to be compromised unnecessarily by timeline restrictions. However, the JIU inspectors recommended that "legislative bodies of the UN system organisations, which have not yet done so, **should establish timetables for the selection process of their executive heads** ending at least three months before the expiring date of the mandate of the incumbent, in order to ensure a smooth transition".

8.4 Length of Term of Office

The Delphi Symposium also addressed the issue of the length of term in office of the Secretary-General. There was wide support among the group for a **single term of office,** perhaps of seven years duration, "on the grounds that such an arrangement would strengthen the position and independence of the Secretary-General and give the incumbent a clear run to achieve long term goals".

8.5 2006 Canadian Proposals

Ahead of Ban Ki-moon's first appointment in 2006, discussion in the General Assembly of the appointment process for the Secretary-General was initiated by Canada. The Canadian delegation in February of that year circulated an informal paper calling for the General Assembly to revisit the appointment process. The paper called attention to the lack of transparency and inclusiveness of the selection process and raised the question of a possible role for the wider membership of the UN, including some actual participation in the selection process prior to receiving the Security Council recommendation.

Many of the Canadian proposals were echoed by the Delphi Symposium and the JIU report. The main recommendations of the Canadian paper were that:

- The selection should be "anchored in agreed criteria/qualifications".
- A "search committee should be asked to identify potential candidates".
- There should be opportunities for candidates to meet with all members of the General Assembly—perhaps through regional group meetings.
- The presidents of the General Assembly and the Security Council should organise some informal events, under their joint auspices to permit an "exploration of the perspectives and positions of the candidates".

While the Canadian initiative did not at that time lead to significant changes in the process of the next Secretary-General's appointment, it is clear that the themes addressed in 2006 continue to be relevant to many UN member states and it remains to be seen if any of these proposals will be reflected in the 2011 process of the appointment of the Secretary-General.

9. Options for 2011

One option for 2011 is for the Council to reactivate the innovative procedures which it introduced in 2006 involving structured consultations with the President of the General Assembly. For instance the members of the Council could agree to request the President of the Council on their behalf to meet with the President of the General Assembly in early June to discuss a possible timetable for decision making. A further meeting could be organised between the two Presidents shortly before the Council takes up the item.

A related option might be for the presidents of the General Assembly and the Security Council to jointly brief the General Assembly on the timing and process.

10. UN Documents

Security Council Recommendations

- S/RES/1715 (9 October 2006) recommended the appointment of Ban Ki-moon.
- S/RES/1358 (27 June 2001) recommended the reappointment of Kofi Annan.
- S/RES/1090 (13 December 1996) recommended the appointment of Kofi Annan.
- S/RES/720 (21 November 1991) recommended the appointment of Boutros Boutros-Ghali.
- S/RES/589 (10 October 1986) recommended the reappointment of Javier Pérez de Cuéllar.
- S/RES/494 (11 December 1981) recommended the appointment of Javier Pérez de Cuéllar.
- S/RES/400 (7 December 1976) recommended the reappointment of Kurt Waldheim.
- S/RES/306 (21 December 1971) recommended the appointment of Kurt Waldheim.
- S/RES/229 (2 December 1966) recommended the reappointment of U Thant.
- S/RES/227 (28 October 1966) recommended temporary rollover of the appointment of U Thant.
- 1026th Meeting (30 November 1962) was the Security Council official record of the recommendation for the appointment of U Thant.
- S/RES/168 (3 November 1961) recommends the appointment of U Thant as acting Secretary-General.
- Letter (26 September 1957) recommended renewal of appointment of Dag Hammarskjöld: Official Records of the Security Council, Twelfth Year, 792nd Meeting.
- Letter (31 March 1953) recommended appointment of Dag Hammarskjöld: Official Records of the Security Council, Eighth Year, 617th Meeting.
- Letter (30 January 1946) recommended appointment of Trygve Lie: Official Records of the Security Council, First Year, First Series, no. 1 page 44.

Selected General Assembly Resolutions

- A/RES/61/3 (31 October 2006) appointed Ban Ki-moon.
- A/RES/60/286 (8 September 2006) included decisions on revisions to the process for appointing the Secretary-General.
- A/RES/55/277 (6 July 2001) renewed appointment of Kofi Annan.
- A/RES/52/12B (19 December 1997) established the post of Deputy Secretary-General.
- A/RES/51/241 (31 July 1997) adopted decisions on strengthening the UN system.
- A/RES/51/200 (17 December 1996) appointed Kofi Annan.
- A/RES/49/252 (14 September 1995) established Working Group on the Strengthening of the UN System.
- A/RES/46/21 (3 December 1991) appointed Boutros Boutros-Ghali.
- A/RES/41/1 (10 October 1986) renewed appointment of Javier Pérez de Cuéllar.

- A/RES/36/137 (15 December 1981) appointed Javier Pérez de Cuéllar.
- 31/60 (8 December 1976) renewed appointment of Kurt Waldheim.
- 2903 (XXVI)) (22 December 1971) appointed Kurt Waldheim.
- 2161 (XXI) (2 December 1966) renewed appointment of U Thant.
- 2147 (XXI) (1 November 1966) briefly extended appointment of U Thant.
- 1771 (XVII) (30 November 1962) appointed U Thant.
- 1640 (XVI) (3 November 1961) appointed U Thant as Acting Secretary-General.
- 1229 (XII) (14 December 1957) renewed appointment of Dag Hammarskjöld.
- 709 (VII) (7 April 1953) appointed Dag Hammarskjöld.
- 492 (V) (1 November 1950) extended appointment of Trygve Lie for three years, without a Security Council recommendation.
- 64 (II) (1 February 1946) appointed Trygve Lie.
- 11 (1) (24 January 1946) established terms and process for appointment.

Other

- A/65/71 (8 April 2010) transmitted the report by the JIU, evaluating the legal and institutional framework and practices in the selection of the Secretary-General and other executive heads conducted by the Joint Inspection Unit.
- A/60/999 (5 September 2006) was the Report of the Ad Hoc Working Group on the Revitalization of the General Assembly.
- A/55/999 (27 June 2001) was the letter addressed to the president of the General Assembly informing of the decision to reappoint Kofi Annan for a second term.

11. Other Useful Resources

The UN in the 21st century: The role and selection of the secretary general of the United Nations- A report- informal account- of the discussions held in Delphi, the Delphi Symposium in honour of Javier Perez de Cuellar Athens and Delphi, 27-30 May 2010.

Statement by Ambassador Allan Rock, Permanent Representative of Canada to the UN, to the *Ad Hoc Working Group on Revitalization of the General Assembly* on 19 April 2006.

Canadian Non-Paper on the Process for the Selection of the Next Secretary-General. February 2006.

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