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**ARTICLE 98**

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### **TEXT OF ARTICLE 98**

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

### **INTRODUCTORY NOTE**

Except as indicated below, the organization of the present study generally follows that of the previous studies of Article 98 in the *Repertory* and its *Supplements Nos. 1 to 9*. In the Analytical Summary of Practice, several subsections and/or their titles have been deleted or modified, due to the evolving nature of the work of the Organization and for the purpose of streamlining the presentation of the study.

## I. General Survey

1. During the period under review, the functions of the Secretary-General with respect to political and security matters were largely shaped by the rise of terrorism as a threat to international peace and security and by economic volatility. In this period, peacekeeping<sup>1</sup> remained a priority for the Secretary-General and in addition to the continuing mandates of previously established missions,<sup>2</sup> a number of new peacekeeping operations were deployed by the Secretariat at the request of the Security Council. He deployed the United Nations Mission in Eritrea and Ethiopia (UNMEE) to facilitate the implementation of Agreement of Cessation of Hostilities between Ethiopia and Eritrea<sup>3</sup>; the United Nations Mission in Liberia (UNMIL)<sup>4</sup> to assist the transitional government with the reestablishment of national authority; the United Nations Operation in Côte d'Ivoire (UNOCI)<sup>5</sup> to facilitate the implementation of the Linas-Marcoussis Peace Agreement signed in 2003; the United Nations Stabilization Mission in Haiti (MINUSTAH)<sup>6</sup> to secure and stabilize the volatile political environment; the United Nations Operations in Burundi (ONUB)<sup>7</sup> to help implement the Arusha Peace and Reconciliation Agreement for Burundi; the United Nations Advanced Mission in the Sudan (UNAMIS)<sup>8</sup> to facilitate the introduction and signing of a comprehensive peace agreement; the United Nations Mission in the Sudan (UNMIS)<sup>9</sup> to support the implementation of the Comprehensive Peace Agreement signed by conflicting parties in January of 2005; the United Nations Integrated Mission in Timor-Leste (UNMIT)<sup>10</sup> to follow up on the United Nations Office in Timor-Leste (UNOTIL) mission in emerging humanitarian and security crises; the United Nations Mission in Central African Republic and Chad (MINURCAT)<sup>11</sup> to protect citizens and promote regional peace; and the African Union/United Nations Hybrid Operation in Darfur (UNAMID)<sup>12</sup> to support the implementation of the Darfur Peace Agreement.

2. The Secretary-General continued to discharge other responsibilities pursuant to an increased number of specific mandates covering a wide range of activities in the political

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<sup>1</sup> The nature of peacekeeping missions, as explained by the Secretary-General in his Millennium Report A/54/2000 at pp. 48 – 49, has changed dramatically from missions focused primarily on monitoring ceasefires to complex, multifaceted, “peace-building” missions involving high levels of political and development assistance. As a result of this normative shift in the nature of peacekeeping, it would be artificial to classify missions deployed by the Secretary-General as either “political” or “peacekeeping” missions. It should be noted that for the purposes of this review the term peacekeeping refers equally to missions that have a strong political or developmental mandate.

<sup>2</sup> See *Repertory, Supplement No. 10*, Study under Article 98, General Survey.

<sup>3</sup> S C resolution 1312 (2000), para. 1.

<sup>4</sup> S C resolution 1509 (2003), para. 1.

<sup>5</sup> S C resolution 1528 (2004), para. 1.

<sup>6</sup> S C resolution 1542 (2004), para. 1.

<sup>7</sup> S C resolution 1545 (2004), para. 2.

<sup>8</sup> S C resolution 1547 (2004), para. 1.

<sup>9</sup> S C resolution 1590 (2005), para. 1.

<sup>10</sup> S C resolution 1704 (2006), para. 1.

<sup>11</sup> S C resolution 1778 (2007), paras. 1 – 2.

<sup>12</sup> S C resolution 1769 (2007), para. 1.

field. The Secretary-General worked in collaboration with the Security Council to establish various peace-building offices with primarily political mandates. In some cases these offices were established to succeed peacekeeping operations whose mandates had terminated or as preventative mechanisms that would help consolidate peace and democracy and prevent conflict. The missions established by the Secretary-General during the period under review include: the United Nations peace-building office in Central African Republic (BONUCA);<sup>13</sup> the United Nations Tajikistan Office of Peace Building (UNTOP);<sup>14</sup> the United Nations Office for West Africa (UNOWA);<sup>15</sup> the United Nations Assistance Mission in Afghanistan (UNAMA);<sup>16</sup> the United Nations Mission of Support in East Timor (UNMISSET)<sup>17</sup> and subsequently UNOTIL;<sup>18</sup> the United Nations Mission in Côte d'Ivoire (MINUCI)<sup>19</sup> preceding the peacekeeping mission UNOCI;<sup>20</sup> the United Nations Assistance Mission for Iraq (UNAMI);<sup>21</sup> the United Nations Observer Mission in Bougainville (UNOMB);<sup>22</sup> the United Nations Integrated Office for Sierra Leone (UNIOSIL);<sup>23</sup> and the United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL);<sup>24</sup> the United Nations Integrated Office in Burundi (BINUB);<sup>25</sup> the United Nations Mission in Nepal (UNMIN);<sup>26</sup> the Office of the United Nations Special Coordinator for Lebanon (UNSCOL);<sup>27</sup> the United Nations Regional Centre for Preventative Diplomacy for Central Asia (UNRCCA);<sup>28</sup> and the United Nations Integrated Peacebuilding Support Office in Guinea-Bissau (UNIOGBIS).<sup>29</sup>

3. During the period under review, ten peacekeeping missions that were established prior to the year 2000 completed their mandates and terminated operations.<sup>30</sup> Also, as

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<sup>13</sup> S/1999/1235, S/1999/1236. Though officially established in 1999, BONUCA began its mandate on 15 February 2000.

<sup>14</sup> S/2000/518, S/2000/519.

<sup>15</sup> S/2001/1128, S/2001/1129.

<sup>16</sup> S C resolution 1401 (2002), para. 1.

<sup>17</sup> S C resolution 1410 (2002), para. 1.

<sup>18</sup> S C resolution 1599 (2005).

<sup>19</sup> S C resolution 1479 (2003), para. 2.

<sup>20</sup> S C resolution 1528 (2004).

<sup>21</sup> S C resolution 1500 (2003), para. 2.

<sup>22</sup> S C resolution 1198, S/2003/1199.

<sup>23</sup> S C resolution 1620 (2005), para. 1.

<sup>24</sup> S C resolution 1829 (2008), para. 1.

<sup>25</sup> S C resolution 1719 (2006), para. 1.

<sup>26</sup> S C resolution 1740 (2007).

<sup>27</sup> S/2007/85, S/2007/86.

<sup>28</sup> S/2007/279, S/2007/280.

<sup>29</sup> S C resolution 1876 (2009), para. 3.

<sup>30</sup> These missions included: the United Nations Mission in the Central African Republic (MINURCA), April 1998 – February 2000; the United Nations Mission of Observers in Tajikistan (UNMOT), December 1994 – May 2000; the United Nations Transitional Administration in East Timor (UNTAET), October 1999 – May 2002; the United Nations Peacebuilding Support Office in Liberia (UNOL), November 1997 – September 2003; the United Nations Mission in Sierra Leone (UNAMSIL), October 1999 – December 2005; the United Nations Civilian Police Mission in Haiti (MIPONUH), December 1997-March 2000; the United Nations Observer Mission in Georgia (UNOMIG), August 1993 – June 2009; the United Nations Mission of Observers, Prevlaka (UNMOP), February 1996 – December 2002; the United Nations Mission

outlined below, the Secretary-General initiated notable changes to the mandates and operations of three ongoing peacekeeping missions that were initiated prior to the period under review.<sup>31</sup>

4. During the period under review, the Secretary-General's depository functions in respect of multilateral treaties and the Charter of the United Nations continued to increase. His activities in this area included reporting to the General Assembly on the status of treaties deposited with him; publishing the document *Multilateral Treaties Deposited with the Secretary-General*;<sup>32</sup> notifying States of the entry into force of treaties deposited with him and all treaty actions, e.g., ratifications, acceptances, approvals, accessions and successions, communicating to States the texts of declarations, reservations and all other treaty actions; providing advice on treaty matters, *inter alia*, in respect of succession to treaties by new States and treaty-making capacity of international organizations and entities other than States; accepting the depository functions in respect of multilateral treaties including those not concluded under the United Nations auspices; dealing with the issue of name changes of States and their impact on the depository practice and notifying the signatories and contracting parties of errors in authentic texts and communicating proposals to correct them.

5. During the period under review, the Secretary-General was mandated to negotiate and take the necessary steps for the establishment and operation of internationalized criminal tribunals in relation to serious crimes that had occurred during the conflict in Sierra Leone (the Special Court for Sierra Leone),<sup>33</sup> the atrocities committed during the former Khmer Rouge regime in Cambodia (the Extraordinary Chambers in the Courts of Cambodia),<sup>34</sup> and the explosion that killed Rafiq Hariri, the former Prime Minister of Lebanon, and twenty two others (the Special Tribunal for Lebanon).<sup>35</sup>

5. Furthermore, the Secretary-General continued to exercise his administrative, technical and representational functions. These functions continued to expand together with the expansion of his various mandates and new tasks.

## II. Analytical Summary of Practice

### A. General administrative functions of the Secretary-General

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in Bosnia Herzegovina (UNMIBH), December 1999 – December 2002; the United Nations Iraq-Kuwait Observer Mission (UNIKOM), April 1991 – October 2003.

<sup>31</sup> See below, part D.

<sup>32</sup> ST/LEG/SER.E/19 – 26.

<sup>33</sup> S/RES/2000/1315 of 14 August 2000.

<sup>34</sup> A/RES/52/135 of 27 February 1998.

<sup>35</sup> S/RES/1757/2007 of 30 May 2007.

## 1. FUNCTIONS OF THE SECRETARY-GENERAL IN CONNECTION WITH MEETINGS OF UNITED NATIONS ORGANS

### *(a) Drawing up of the agenda*

6. During the period under review, the Secretary-General continued to perform his functions with respect to the drawing up of the agenda of the General Assembly and other United Nations bodies as in the previous period.<sup>36</sup>

### *(b) Convening of sessions and meetings*

7. During the period under review, the Secretary-General continued to receive requests from the General Assembly and other bodies to convene and make arrangements for conferences and meetings.<sup>37</sup> For example, by resolution 56/180 of 21 December 2001, the General Assembly requested the Secretary-General to convene an International Ministerial Meeting of Landlocked and Transit Developing Countries and Donor Countries and International Financial and Development Institutions on Transit Transport Cooperation to review the current situation of transit transport systems and to formulate appropriate policy measures and action-oriented programmes aimed at developing efficient transit transport systems.<sup>38</sup> Similar requests were also made by other United Nations bodies. For example, in its resolution 2005/16 of 22 July 2005, the Economic and Social Council requested the Secretary-General to convene an open-ended intergovernmental group of experts to exchange experiences and put forward suggestions and recommendations with regard to protecting witnesses and encouraging them to collaborate in the judicial process.<sup>39</sup>

### *(c) Examination of credentials*

8. During the period under review, the Secretary-General continued to examine credentials of representatives received from Member States for each session of the General Assembly and submitted memoranda to the Credential Committee for consideration. The Secretary-General also continued to examine credentials of representative of states and organizations participating in meetings of the United Nations Security Council.<sup>40</sup>

### *(d) Provision of staff, experts and services*

9. During the period under review, the Secretary-General continued to provide staff, experts and services to the organs of the Organization and to make necessary administrative arrangements for the meetings. These services and arrangements included, *inter alia*, conference service, translation and interpretation service, and document

<sup>36</sup> See, for example, A/55/50; A/63/1, para 30; A/56/50; and A/61/50.

<sup>37</sup> See, for example, A/RES/57/169, p.2, para.4, and A/RES/55/61, p. 2, para 5; A/RES/58/240, para. 67.

<sup>38</sup> See G A resolution 56/180, para. 17.

<sup>39</sup> See E S C resolution 2005/16, para. 4.

<sup>40</sup> See, for example, S/2005/42; S/2006/1040; S/2007/787; and S/2009/692.

control. For example, in its resolution 57/95 of 22 November 2002, the General Assembly requested the Secretary-General to provide the Disarmament Commission and its subsidiary bodies with interpretation and translation facilities in the official languages of the United Nations and to assign all the necessary resources and services, including verbatim records.<sup>41</sup> In addition, in its resolution 61/114 of 14 December 2006 the General Assembly requested the Secretary-General to provide the necessary services and assistance to the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East for the conduct of its work.<sup>42</sup> Furthermore, the General Assembly, by its resolution 61/22 of 1 December 2006 requested the Secretary-General to continue to provide the Committee on the Exercise of the Inalienable Rights of the Palestinian People with all the necessary facilities for the performance of its tasks.<sup>43</sup>

10. The Secretary-General was also requested by the General Assembly to ensure that, as far as possible, all requests for conference services for the meetings of regional and other major groupings of Member States were met.<sup>44</sup>

## 2. TRANSMISSION OF COMMUNICATIONS

11. During the period under review, the Secretary-General continued to be routinely requested to transmit communications of a varied sort and to a diverse range of addressees, including Member States,<sup>45</sup> United Nations organs and bodies,<sup>46</sup> and governing bodies of specialized agencies.<sup>47</sup>

## 3. INTEGRATION OF ACTIVITIES

### (a) *Calendar of meetings*

12. During the period under review, the Secretary-General continued to report to the Committee on Conferences on the calendar of conferences and meetings. The Secretary-General also continued to deal with the proposed changes to the calendar that did not have programme budget implications in consultation with the Bureau of the Committee.<sup>48</sup>

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<sup>41</sup> See G A resolution 57/95, para. 8. Similar requests were also made by the General Assembly. See, for example, G A resolutions 58/67, para. 8; 59/105, para. 8; 60/91, para. 8; 61/98, para. 10; 62/54, para. 10; 63/83, para. 11 and 64/65, para. 10.

<sup>42</sup> See G A resolution 61/114, para. 3.

<sup>43</sup> See G A resolution 61/22, para. 8.

<sup>44</sup> See, for example, G A resolutions 55/222; 56/242; 58/250; 59/265; 60/236 B; 61/236; 62/225 and 63/248.

<sup>45</sup> See, for example, G A resolutions 54/156; 55/89; 56/143; 57/200; 58/164; 59/182.

<sup>46</sup> See, for example, G A resolutions 59/263 57/95; 59/105; 59/283; 60/91; 61/98; 62/54; 63/83, 64/65.

<sup>47</sup> See, for example, G A resolutions 56/67; 57/133; 58/104; 59/129; 60/112; 61/231; 62/114; 63/103; 64/99.

<sup>48</sup> See, for example, G A resolution A/62/32, para 6 and 9; and G A resolution A/60/32, para. 30.

(b) *Planning of work programmes and priorities*

13. During the period under review, the Secretary-General continued to perform functions with regard to programmes planning and priority setting. For example, in its resolution 58/269 of 23 December 2003, the General Assembly requested the Secretary-General to prepare, on a trial basis, a biennial strategic framework to replace the four-year medium-term plan which would comprise two parts in one document: in part one, a plan outline, reflecting the longer-term objectives of the Organization; and in part two, a biennial programme plan to cover two years.<sup>49</sup> The Assembly affirmed that the strategic framework should constitute the principal policy directive of the United Nations and should serve as the basis for programme planning, budgeting, monitoring and evaluation, in accordance with the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation.<sup>50</sup>

14. In its resolution 58/269 the General Assembly also requested the Secretary-General to submit a report, through the Committee for Programme and Coordination, reviewing the experiences gained with the changes made in the planning and budgeting process, in order to review, so as to take a final decision at its sixty-second session, the format, content and duration of the strategic framework, including the necessity of maintaining part one.<sup>51</sup> By its resolution 62/224 of 22 December 2007, the Assembly endorsed the conclusions and recommendations of the Committee for Programme and Coordination on programme planning as contained in its report<sup>52</sup> and decided, *inter alia*:

- To maintain the strategic framework as the principal policy directive of the United Nations with effect from the biennium 2010-2011;
- To continue to include part one: plan outline in the strategic framework;
- To request the Secretary-General to improve the format of part one and the reflection of the longer-term objectives therein by, *inter alia*, elaborating on the priorities of the United Nations agreed to by the Member States, in accordance with General Assembly resolutions 59/275 and 61/235.

15. With regard to priority setting, and in accordance with the relevant requests and decisions of the General Assembly, during the period under review the Secretary-General submitted proposed strategic frameworks for the biennials 2006 – 2007,<sup>53</sup> 2008 – 2009<sup>54</sup> and 2010 – 2011.<sup>55</sup>

<sup>49</sup> See G A resolution 58/269, para. 5.

<sup>50</sup> See, *ibid.* and ST/SGB/2000/8.

<sup>51</sup> See G A resolution 58/269, para. 8.

<sup>52</sup> A/62/16.

<sup>53</sup> A/59/6 (Part one) and A/59/6 (Prog. 1 – 27).

<sup>54</sup> A/61/6 (Part one) and A/61/6 (Prog. 1 – 13, 14/Rev.1 and 15 – 27).

<sup>55</sup> A/63/6 (Part one) and A/63/6 (Prog. 1 – 27).

(c) *Integration of activities relating to operational programmes*<sup>56</sup>

16. During the period under review, the Secretary-General continued to receive requests to take actions, with respect to the coordination of United Nations operational programmes. For example, in its resolution 58/140 of 22 December 2003, the General Assembly requested the Secretary-General to take all necessary measures to provide adequate support to the Commission on Crime Prevention and Criminal Justice, as the principal policy-making body in this field, in performing its activities, including cooperation and coordination with the institutes of the United Nations Crime Prevention and Criminal Justice Programme network and other relevant bodies.<sup>57</sup> In addition, in its resolution 61/180 of 20 December 2006, the General Assembly requested the Secretary-General to improve upon the fledgling inter-agency coordination group on trafficking in persons in order to enhance cooperation and coordination and facilitate a holistic and comprehensive approach by the international community to the problem of trafficking in persons.<sup>58</sup> The Assembly also requested the Secretary-General to entrust the Executive Director of the United Nations Office on Drugs and Crime with coordinating the activities of the inter-agency coordination group.<sup>59</sup> Furthermore, in its resolution 62/9 of 20 November 2007, the General Assembly requested the Secretary-General and the United Nations Coordinator of International Cooperation on Chernobyl to continue to take appropriate practical measures to strengthen coordination of the international efforts in that area.<sup>60</sup>

(d) *Coordination of services to United Nations organs*

17. During the period under review, the Secretary-General reported to the Committee on Conference on the utilization of conference-servicing resources and the meeting statistics of United Nations organs.<sup>61</sup> In its resolution 56/242 of 24 December 2001 entitled “Pattern of conferences”, the General Assembly addressed a number of requests to the Secretary-General for the presentation of reports on the utilization of conference-servicing resources and facilities, documentation and publication-related matters, translation and interpretation-related matters, and information technology. In order to contribute to a coherent and integrated consideration of the interlinked issues emerging from these requests that are of a technical nature, the Secretary-General decided to submit a single report instead of several separate reports.<sup>62</sup>

<sup>56</sup> Note that this section refers to the Secretary-General’s functions with relation to the integration of the activities of *programmes*. For discussion of the Secretary-General’s functions with respect to coordination with the activities of *specialized agencies and other intergovernmental organizations* (which, unlike programmes, are usually created through an independent legal instrument), see section A.4 below.

<sup>57</sup> See G A resolution 58/140, para. 16.

<sup>58</sup> See G A resolution 61/180, para. 12.

<sup>59</sup> See *ibid.*, para. 13.

<sup>60</sup> See G A resolution 62/9, para. 5.

<sup>61</sup> See, for example, A/AC.172/2000/3, A/AC.172/2000/3/Rev.1, A/AC.172/2000/3/Rev.1/Corr.1, and A/AC.172/2001/3.

<sup>62</sup> See, for example, A/57/228, A/58/194, A/58/194/Corr.1, A/58/194/Corr.2, A/59/159, A/60/93, A/60/93/Corr.1, A/61/129, A/62/161, A/62/161/Corr.1, A/62/161/Corr.2, A/63/119, A/63/119/Corr.1 and A/64/136.

#### 4. COORDINATION WITH SPECIALIZED AGENCIES AND OTHER INTERGOVERNMENTAL ORGANIZATIONS

18. During the period under review, the Administrative Committee on Coordination (ACC) was renamed the United Nations System Chief Executives Board for Coordination (CEB). As he had with the ACC, the Secretary-General exercised functions as the Chairman of the CEB, which brought him together with corresponding officers of the United Nations specialized agencies, for the purpose of ensuring the fullest and most effective implementation of the agreements entered into between the Organization and specialized agencies.<sup>63</sup> The annual overview reports of the CEB addressed operational, administrative and financial matters.<sup>64</sup> During the period under review, CEB focused on issues including, *inter alia*, follow-up to the United Nations Millennium Declaration, transitioning CEB and its subsidiary structure from a hierarchical and rigid system of inter-agency committees to “networks” of specialists from different areas who interact with one another with the help of modern information technology, preventing and managing armed conflict, fostering coherence in United Nations system-wide activities, curbing transnational organized crime, mainstreaming gender, stimulating economic development, and combating climate change.

#### 5. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO THE PREPARATION OF WORK AND IMPLEMENTATION OF DECISIONS

19. During the period under review, the Secretary-General continued to receive requests from organs of the United Nations with regard to the preparation of work and implementation of decisions. The Secretary-General was requested, *inter alia*, to take measures necessary to implement,<sup>65</sup> to report on the implementation of,<sup>66</sup> or to provide facilities and services for certain bodies to implement,<sup>67</sup> resolutions and decisions. The functions of the Secretary-General with regard to preparation of work and implementation of decisions also included, for example, convening certain committees, conferences and meetings,<sup>68</sup> making recommendations and suggestions,<sup>69</sup> providing

<sup>63</sup> See E S C resolution 13 (III).

<sup>64</sup> See E/2002/55, E/2003/55, E/2004/67, E/2005/63, E/2006/66, E/2007/69, E/2008/58 and E/2009/67.

<sup>65</sup> See, for example, G A resolutions 56/180, para. 20; 58/115, para. 13; 59/218, para. 15; 62/75, para. 2; 62/96, para. 5; 63/132, para. 2 and 63/133, para. 2.

<sup>66</sup> See, for example, G A resolutions 56/128, para. 5 (b); 58/244, para. 7; 60/141, para. 25; 61/210, para. 12; 61/202, para. 14; 62/272, para. 13; 62/192, para. 27 and 63/221, para. 15.

<sup>67</sup> See, for example, G A resolutions 61/226, para. 5; 62/221, para. 5 and 63/166, para. 36.

<sup>68</sup> See, for example, G A resolutions 56/180, para. 13; 58/281, para. 2; 59/84, para. 8; 60/252, para. 9; 61/84, para. 9; 61/222, para. 22; 62/41, para. 9; 62/215, para. 26, 105 and 137 and 63/42, para. 9.

<sup>69</sup> See, for example, G A resolutions 61/220, para. 10; 62/208, para. 125; 63/141, para. 28 and 63/156 para. 27.

special personnel with all necessary assistance in their discharge of mandates,<sup>70</sup> and carrying out discussions with Governments.<sup>71</sup>

## 6. FUNCTIONS OF THE SECRETARY-GENERAL IN CONNECTION WITH INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

22. During the period under review, the Secretary-General continued to exercise his functions as depositary of multilateral treaties and the Charter of the United Nations. In keeping with the established practice, he also continued the yearly publication *Multilateral Treaties Deposited with the Secretary-General*<sup>72</sup>, both in print and via e-publication, providing the participation status and other relevant information, such as reservations, declarations and notifications, on treaties deposited with him. In addition, during the entire period under review, the Secretary-General continued to maintain an online United Nations Treaty Collection, with information on his depositary functions; a new version of this website was launched on 18 September 2008.

23. Additional information on the deposit of binding instruments is included in the *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties*<sup>73</sup>. In 2002, the Treaty Section published a new volume, the *Treaty Handbook*<sup>74</sup>, as a guide to the Secretary-General's practice as a depositary of multilateral treaties and to treaty law and practice in relation to registration under Article 102 of the Charter of the United Nations.

24. The question of succession of States in respect of treaties deposited with the Secretary-General was considered during the period under review. Following the break-up of the Socialist Federal Republic of Yugoslavia, the Agreement on Succession Issues was concluded on 29 June 2001 by the five successor States, namely, Bosnia Herzegovina, Croatia, the Federal Republic of Yugoslavia (Serbia and Montenegro), Slovenia, and the Former Yugoslav Republic of Macedonia<sup>75</sup>. The Agreement had no provisions relating to signature and was signed by the five successor States on 29 June 2001. The Agreement provides, in its article 11, that it shall be subject to ratification. All five successor States ratified the Agreement, which entered into force on 2 June 2004. The Agreement is not typical of the types of treaties accepted in deposit. It was deposited with the Secretary-General on an exceptional basis due to its political significance and the involvement of the United Nations in achieving peace in the region.

<sup>70</sup> G A resolutions 55/175, para. 7; 57/209, para. 11; 57/226, para. 16; 59/211, para. 19; 60/165, para. 19; 61/92, para. 9; 61/163, para. 23; 62/164, para. 27; 62/222, para. 6 (c) and 63/182, para. 19.

<sup>71</sup> See, for example, G A resolutions 54/164, para. 8; 56/160, para. 11; 58/174, para. 13; 59/195, para. 15; 61/232, para. 5; 62/222, para. 6 (a) and 63/245, para. 6.

<sup>72</sup> See ST/LEG/SER.E/19 – 26 or <https://treaties.un.org/pages/ParticipationStatus.aspx>.

<sup>73</sup> ST/LEG/7/Rev.1 or [https://treaties.un.org/doc/source/publications/practice/summary\\_english.pdf](https://treaties.un.org/doc/source/publications/practice/summary_english.pdf)

<sup>74</sup> United Nations publication Sales No. E.02.V2, or

[https://treaties.un.org/Pages/Publications.aspx?pathpub=Publication/TH/Page1\\_en.xml](https://treaties.un.org/Pages/Publications.aspx?pathpub=Publication/TH/Page1_en.xml)

<sup>75</sup> United Nations, *Treaty Series*, vol. 2262, p. 251

25. During the period under review, the Secretary-General continued to adhere to the established practice regarding the acceptance of depositary functions by which the assumption of depositary functions is normally restricted to treaties of global concern, usually adopted by the General Assembly or concluded by plenipotentiary conferences convened by the appropriate organs of the United Nations, and to regional treaties that are drawn up within the framework of the United Nations regional commissions and are open to participation by their entire membership. The Secretary-General has always reserved the possibility of making exceptions to this criterion.

26. As depositary of multilateral treaties, the Secretary-General continued to discharge the function of notifying signatories, contracting States and parties of errors in the original texts of treaties and communicating the proposals to correct such errors, correcting the errors by issuing *procès-verbaux* of rectification, where no objections were raised to the proposed corrections, and registering ex officio with the Secretariat such corrections.

27. During the period under review, the practice of the Secretary-General with respect to the length of time within which States may object to a communication which seeks to modify their existing reservations to multilateral treaties was modified. The longstanding practice had been that there existed a period of 90 days during which States could object to a communication of this nature, before tacit consent occurred. However, the Secretary-General considered that complex questions of law and policy might arise in relation to such multilateral treaties, creating a requirement for extensive consultation that might exceed a 90-day period. Mindful of these considerations, the Secretary-General as depositary now stipulates for a period of twelve months during which States must inform him if they wish him not to accept in deposit a communication by a State which seeks to modify, or may be understood to modify, an existing reservation to a treaty. When circulating a reservation henceforth, a period of twelve months will be stipulated as the period within which parties must inform him if they do not wish him to consider them to have accepted that reservation. Similarly, the Secretary-General as depositary now stipulates for a period of twelve months during which States must inform him if they wish him not to accept in deposit a reservation which a State may seek to formulate subsequently to having established its consent to be bound by a treaty.<sup>76</sup>

28. In 2000, the Secretary-General invited world leaders attending the landmark Millennium Summit to take advantage of their presence at United Nations Headquarters to sign a wide range of major international treaties deposited with him. Since then, an annual Treaty Event has been held, usually coinciding with the general debate of the General Assembly in September.

29. In addition, by resolutions adopted at several of the regular sessions that took place during the period under review, the General Assembly requested the Secretary-General to submit to it, at the next or following regular session, reports on several multilateral treaties deposited with him:

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<sup>76</sup> Note verbale LA41TR/221(23 – 1) dated 4 April 2000.

- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography<sup>77</sup>
- United Nations Convention on the Rights of the Child<sup>78</sup>
- United Nations Convention against Transnational Organized Crime<sup>79</sup>
- United Nations Convention against Transnational Organized Crime: Protocol against the Smuggling of Migrants by Land, Sea and Air<sup>80</sup>
- United Nations Convention against Transnational Organized Crime: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children<sup>81</sup>
- United Nations Convention against Transnational Organized Crime: Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition<sup>82</sup>
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Optional Protocol<sup>83</sup>
- United Nations Convention against Corruption<sup>84</sup>
- Convention on Jurisdictional Immunities of States and Their Property<sup>85</sup>
- United Nations Convention on the Use of Electronic Communications in International Contracts<sup>86</sup>
- Convention on the Safety of United Nations and Associated Personnel : Optional Protocol<sup>87</sup>
- Convention on the Rights of Persons with Disabilities<sup>88</sup>

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<sup>77</sup> G A resolution 54/263.

<sup>78</sup> G A resolution 55/79.

<sup>79</sup> G A resolution 55/25.

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> G A resolution 55/255.

<sup>83</sup> G A resolution 57/119.

<sup>84</sup> G A resolution 58/4.

<sup>85</sup> G A resolution 59/38.

<sup>86</sup> G A resolution 60/21.

<sup>87</sup> G A resolution 60/42.

<sup>88</sup> G A resolution 61/106.

- International Convention for the Protection of All Persons from Enforced Disappearance<sup>89</sup>
- United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea<sup>90</sup>
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights<sup>91</sup>

#### 7. FUNCTIONS OF THE SECRETARY-GENERAL IN RESPECT OF THE SUBMISSION OF THE ANNUAL REPORT

30. As stated in the *Repertory* and previous *Supplements*, the Secretary-General continued to submit to the General Assembly an annual report on the work of the Organization.<sup>92</sup> Notwithstanding varied structures and styles, the annual reports dealt with the following subjects: peace and security, preventive diplomacy, human rights, humanitarian actions, peacekeeping actions, economic and social development, legal affairs, globalization, and administrative management.

#### B. Technical functions of the Secretary-General\*

##### 1. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO THE COLLECTION OF INFORMATION AND THE UNDERTAKING OF STUDIES

###### *(a) Reports submitted by the Secretary-General pursuant to requests by United Nations Organs*

31. The Secretary-General's functions in this field continued to be extensive and multifarious.<sup>93</sup> As in previous years, the Secretary-General continued to be requested to ascertain the views of or to consult with Member States.<sup>94</sup> He was also requested to seek

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<sup>89</sup> G A resolution 61/177.

<sup>90</sup> G A resolution 63/122.

<sup>91</sup> G A resolution 63/117.

<sup>92</sup> See A/55/1, A/56/1, A/57/1, A/58/1, A/59/1, A/60/1, A/61/1, A/62/1, A/63/1 and A/64/1.

\* Various functions performed by the Secretary-General, due to a complex nature of many United Nations programmes and tasks, may also acquire a complex nature which predetermines their integral character. Thus, they may be closely related to each other, which makes it difficult to separate them from each other, including such cases when, for example, technical functions may have a political significance and political and other functions may contain very important technical elements inseparable from their "substantive" elements. Various groups of technical functions may also be difficult to separate from each other or to list under distinctly different categories.

<sup>93</sup> See this *Supplement* under Articles 13(1)(a), 13(1)(b), 13(2), and 62(1) for the range of reports, studies and information the General Assembly requested from the Secretary-General during the period under review.

<sup>94</sup> See, for example, G A resolutions 62/70, para. 2; 60/78, para. 5; 62/211, para. 14; 63/44, para. 3 and 63/161, para. 2. See also, for example, E S C resolutions 2002/26, para. 12; and 2002/16, para. 6.

the views of or consult with appropriate international bodies<sup>95</sup> or experts,<sup>96</sup> for example, in the context of the relationship between disarmament and development,<sup>97</sup> transparency in armaments,<sup>98</sup> or developments in the field of information and telecommunications in the context of international security,<sup>99</sup> as well as non-governmental organizations,<sup>100</sup> for instance, in connection with human rights and cultural diversity.<sup>101</sup> He was also requested to draw upon relevant external expertise from the private<sup>102</sup> and public sectors and the academic community.<sup>103</sup>

## 2. OPERATIONAL FUNCTIONS OF THE SECRETARY-GENERAL

### *(a) Functions undertaken by the Secretary-General pursuant to requests made by United Nations organs*

32. During the period under review, numerous resolutions adopted by the General Assembly or the Economic and Social Council contained requests to the Secretary-General with regard to various operational programmes.

33. The Secretary-General was requested to perform a wide variety of functions. For example, he was requested to ensure that the Office of the United Nations High Commissioner for Human Rights effectively assisted the Human Rights Committee and the Committee on Economic, Social and Cultural Rights by providing, *inter alia*, adequate Secretariat staff resources and conference and other relevant support services;<sup>104</sup> to ensure proper accountability and training of all those involved in the procurement process at Headquarters and in the field;<sup>105</sup> to provide, at his discretion, good offices to states in disputes surrounding acts of violence against diplomatic and consular missions or representatives;<sup>106</sup> to ensure a maximum of efficiency and economy in the administration of, among other operations, UNTAET,<sup>107</sup> UNAMID,<sup>108</sup> and the United Nations Organization Mission in the Democratic Republic of Congo (MONUC);<sup>109</sup> to ensure that the competent units within the Secretariat developed the adequate capacity

<sup>95</sup> See, for example, G A resolutions 62/128, paras. 8 and 9 and 63/223, para. 6.

<sup>96</sup> See, for example, G A resolutions 57/65, para. 2; 58/37, para. 3; 62/17, para. 4 and 63/37, para. 4. See also, for example, E S C resolution 2001/11, paras. 1 and 4.

<sup>97</sup> See, for example, G A resolution 57/65, para. 2.

<sup>98</sup> See, for example, G A resolutions 57/75, para. 4 (b); 60/226, para. 5 (b); 63/69, para. 5 (b).

<sup>99</sup> See, for example, G A resolutions 57/53, para. 4; 58/32, para. 4; 60/45, para. 4; 61/54, para. 4; 62/17, para. 4 and 63/37, para. 4.

<sup>100</sup> See, for example, G A resolution 57/184, paras. 5, 7 and 9.

<sup>101</sup> See, for example, G A resolutions 55/91, para. 9; 56/156, para. 13; 57/204, para. 14; 58/167, para. 14; 60/167, para. 14 and 62/155, para. 15.

<sup>102</sup> See, for example, G A resolutions 55/215, paras. 3 and 4 and 56/76, para. 5.

<sup>103</sup> See, for example, G A resolution 55/33 E, paras. 1(f) and 2.

<sup>104</sup> G A resolutions 56/144, para. 26; 58/165, para. 29; 60/149, para. 26; 62/147, para. 24.

<sup>105</sup> G A resolutions 55/247, para. 4; 62/269, para. 9.

<sup>106</sup> G A resolution 63/126, paras. 2 and 9.

<sup>107</sup> G A resolution 55/228, para. 12; 56/249, para. 9.

<sup>108</sup> G A resolution 62/232, para. 40.

<sup>109</sup> G A resolutions 56/252 C, para. 14; 58/259 B, para. 13; 59/285 B, para. 12; 60/121 B, para. 20; 61/281, para. 15; 62/256, para. 21; 63/291, para. 15.

and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions;<sup>110</sup> to mobilize all relevant entities of the United Nations system to provide the necessary technical support to the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders;<sup>111</sup> to remain actively engaged in all aspects of the relations of the United Nations with the host country;<sup>112</sup> to provide the Electoral Assistance Division with adequate human resources to allow it to carry out its mandate;<sup>113</sup> to provide the International Law Seminar with adequate services, including interpretation, and to continue considering means of improving its structure and content;<sup>114</sup> to intensify efforts and support initiatives that would contribute towards the full implementation of the seven recommendations identified in the report of the Advisory Board on Disarmament Matters of 30 August 2001 that would significantly reduce the risk of nuclear war;<sup>115</sup> and to encourage the organizations and bodies of the United Nations system to undertake studies and analytical work on the social impact of the realization of the internationally agreed development goals, including the Millennium Development Goals.<sup>116</sup>

34. In addition, the Secretary-General continued to be asked to provide, promote or coordinate necessary assistance to specific countries or regions. He was asked, for instance, to facilitate closer cooperation between the African Union and the United Nations Regional Centre for Peace and Disarmament in Africa;<sup>117</sup> to pursue the establishment of a nuclear-weapon-free zone in the Middle East through consultations with regional and other concerned States;<sup>118</sup> to support the establishment of a network of parliamentarians with a view to the creation of a subregional parliament in Central Africa;<sup>119</sup> to continue to provide good offices and offer technical assistance to the Government of Myanmar with regard to the situation of human rights and the restoration of democracy;<sup>120</sup> to mobilize financial, technical and other assistance for the rehabilitation and reconstruction of Liberia;<sup>121</sup> to provide the necessary assistance and services to the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East for the conduct of its work;<sup>122</sup> and to

<sup>110</sup> G A resolutions 55/157, para. 3; 56/87, para. 4; 57/25, para. 4; 58/80, para. 4; 59/45, para. 4.

<sup>111</sup> G A resolutions 56/122, para. 6; 57/172, para. 6; 58/139, para. 6; 59/158, para. 6; 60/176, para. 6; 61/182, para. 6; 62/174, para. 9; 63/196, para. 10.

<sup>112</sup> See, for example, G A resolutions 54/104, para. 6; 55/154, para. 8; 56/84, para. 7; 57/22, para. 7; 58/78, para. 7; 59/42, para. 7; 60/24, para. 8; 61/41, para. 9; 62/72, para. 11; 63/130, para. 9.

<sup>113</sup> See, for example, G A resolutions 56/159, para. 12; 58/180, para. 9; 60/162, para. 9; 62/150, para. 9.

<sup>114</sup> G A resolutions 56/82, para. 18; 57/21, para. 17; 58/77, para. 18; 59/41, para. 19; 60/22, para. 18; 61/34, para. 22; 62/66, para. 26; 63/123, para. 25.

<sup>115</sup> A/56/400, para. 3; and G A resolution 60/79, para. 5.

<sup>116</sup> E S C resolution 2006/4, para. 3.

<sup>117</sup> G A resolution 63/80, para. 6.

<sup>118</sup> G A resolution 56/21, para. 10.

<sup>119</sup> G A resolution 58/65, para. 10.

<sup>120</sup> G A resolution 62/222, para. 6(a).

<sup>121</sup> G A resolution 61/218, para. 8(a).

<sup>122</sup> G A resolution 58/93, para. 3.

assist Palestinian women by all available means, including those laid out in his report entitled “Situation of and assistance to Palestinian women”.<sup>123</sup>

35. The General Assembly, *inter alia*, welcomed with appreciation the efforts of the Secretary-General in drawing the attention of the international community to the acute humanitarian problems of Tajikistan and in mobilizing assistance for the post-conflict rehabilitation, recovery and reconstruction of the country.<sup>124</sup> The Economic and Social Council, *inter alia*, took note with appreciation of the report of the Secretary-General on the establishment of an ad hoc advisory group on African countries emerging from conflict.<sup>125</sup>

*(b) Functions initiated by the Secretary-General*

36. The General Assembly, *inter alia*, welcomed, following the decision of the heads of State and Government, as contained in the United Nations Millennium Declaration, the Secretary-General’s initiative to create a Youth Employment Network;<sup>126</sup> welcomed the intention of the Secretary-General to conduct a systematic evaluation of the impact, efficiency and cost-effectiveness of all activities of the Department of Public Information;<sup>127</sup> commended the Secretary-General for his initiative to make *Repertory* studies available on the Internet;<sup>128</sup> welcomed the initiative of the Secretary-General to tackle the recurrent drought in Ethiopia on a long-term basis;<sup>129</sup> noted the intention of the Secretary-General to establish an Office for Disarmament Affairs and to appoint a High Representative as the head of the Office;<sup>130</sup> and requested him to include in his annual comprehensive report on oceans and the law of the sea suggestions on initiatives to improve coordination, in accordance with resolution 54/33.<sup>131</sup>

*(c) Functions of the Secretary-General in matters of a humanitarian nature and human rights*

37. During the period under review, the General Assembly, *inter alia*, requested the Secretary-General to submit a report on United Nations activities in Bosnia and Herzegovina during the period from 1992 to 2002, in view of the experience gained and lessons learned, as a positive contribution to future United Nations operations;<sup>132</sup> to continue his discussions on the situation of human rights and the restoration of democracy with the Government of Myanmar, and to submit additional reports to the General Assembly during its fifty-fifth session on the progress of those discussions;<sup>133</sup> to

<sup>123</sup> E S C resolution 2004/56, para. 7 (citing E/CN.6/2004/4).

<sup>124</sup> G A resolution 57/103, para. 5.

<sup>125</sup> E S C resolution 2002/1, para. 1 (citing E/2002/12 and Corr.1).

<sup>126</sup> G A resolution 56/117, para. 14.

<sup>127</sup> G A resolution 57/300, para. 17.

<sup>128</sup> G A resolution 58/248, para. 9.

<sup>129</sup> G A resolution 57/149, para. 3.

<sup>130</sup> G A resolution 61/257, preamble.

<sup>131</sup> G A resolution 55/7, para. 42.

<sup>132</sup> G A resolution 57/10, para. 17.

<sup>133</sup> G A resolution 55/112, para. 23.

invite Member States to present practical proposals and ideas that would contribute to the strengthening of United Nations action in the field of human rights, through the promotion of international cooperation based on the principles of non-selectivity, impartiality and objectivity, and to submit a comprehensive report on this question to the General Assembly;<sup>134</sup> to submit a comprehensive report on assistance to refugees, returnees and displaced persons in Africa to the General Assembly at its sixty-second session, taking fully into account the efforts expended by countries of asylum.<sup>135</sup> In addition, the Economic and Social Council, requested the Secretary General to perform a number of functions of a humanitarian nature. For example, in resolution 2005/4, it requested the Secretary-General to encourage the relevant organizations of the United Nations system to develop further appropriate mechanisms in order to improve the capacity of the United Nations system to respond to humanitarian needs.<sup>136</sup>

38. The General Assembly, *inter alia*, expressed its appreciation for the Secretary-General's efforts in improving the accessibility of the United Nations for persons with disabilities;<sup>137</sup> for his efforts in mobilizing and coordinating the delivery of appropriate humanitarian assistance in war-stricken Afghanistan;<sup>138</sup> and for his efforts in the humanitarian field more generally.<sup>139</sup> The Assembly also commended, *inter alia*, the Secretary-General, and through him the United Nations system, for the activities undertaken at the request of Governments to support efforts to consolidate democracy;<sup>140</sup> and noted with appreciation the efforts of the Secretary-General to implement the monitoring and reporting mechanism on children and armed conflict, in accordance with Security Council resolution 1612 (2005) of 26 July 2005, with the participation of and in cooperation with national Governments and relevant United Nations and civil society actors.<sup>141</sup>

39. The Assembly requested the Secretary-General to take all appropriate steps, in consultation with the United Nations Conciliation Commission for Palestine, for the protection of Arab property, assets and property rights in Israel;<sup>142</sup> to commission an independent review of the Central Emergency Response Fund;<sup>143</sup> to establish a programme of outreach on the subject of the "Holocaust and the United Nations" as well as measures to mobilize civil society for Holocaust remembrance and education, in order to help to prevent future acts of genocide;<sup>144</sup> to assist, through his Special Representative for human rights in Cambodia, the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia, and to ensure adequate resources for the

<sup>134</sup> G A resolution 55/104, para. 11.

<sup>135</sup> G A resolution 61/139, para. 28.

<sup>136</sup> E/2005/4, para 6.

<sup>137</sup> G A resolutions 54/121, para. 15; 56/115, para. 15; 58/132, para. 14, 60/131, para. 15.

<sup>138</sup> G A resolutions 56/220 A-B, B, preamble; 57/113 A-B, B, preamble; 58/27 A-B, B, preamble; 59/112 A-B, B, preamble.

<sup>139</sup> G A resolution 59/171, para. 1.

<sup>140</sup> G A resolutions 54/36, para. 4; 55/43, para. 2; 56/96, para. 8; 58/113, para. 7; 60/253, para. 6.

<sup>141</sup> G A resolution 61/146, part 2, para. 39.

<sup>142</sup> G A resolutions 55/128, para. 2; 56/57, para. 2; 57/122, para. 2; 58/94, para. 2; 59/120, para. 2; 60/103, para. 2; 61/115, para. 2; 62/105, para. 2; 63/94, para. 2.

<sup>143</sup> G A resolution 60/124, para. 22; 63/139, para. 18.

<sup>144</sup> G A resolution 60/7, para. 6.

continued functioning of the operational presence in Cambodia of the Office of the United Nations High Commissioner for Human Rights;<sup>145</sup> to continue to strengthen exchanges between the United Nations and regional intergovernmental organizations dealing with human rights and to make available adequate resources from within the regular budget of technical cooperation to the activities of the Office of the High Commissioner to promote regional arrangements;<sup>146</sup> and to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment.<sup>147</sup>

40. The Assembly expressed its appreciation to the Special Representative of the Secretary-General for Afghanistan and the United Nations Assistance Mission in Afghanistan for their continued efforts in coordinating, planning and implementing humanitarian and other assistance in cooperation with the Transitional Administration;<sup>148</sup> and commended the important role that the Special Rapporteur of the Commission on Human Rights plays towards the elimination of extrajudicial, summary or arbitrary executions, and encouraged the Special Rapporteur to continue, within his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his reports.<sup>149</sup>

41. The General Assembly requested, *inter alia*, the Secretary-General to continue to explore ways to strengthen the rapid response capacities of the international community to provide immediate humanitarian relief, building on existing arrangements and ongoing initiatives;<sup>150</sup> to make every effort to continue mobilizing and coordinating the humanitarian assistance being provided by the specialized agencies and other organizations and organs of the United Nations system in support of the efforts of the Government of El Salvador following the earthquake of 13 January 2001;<sup>151</sup> and to prepare, in consultation with relevant bodies of the United Nations system, recommendations on how to improve the potential of the United Nations to mitigate natural disasters including, in particular, through the development of an inventory of the existing capacities at the national, regional and international levels.<sup>152</sup>

### 3. FUNCTIONS OF THE SECRETARY-GENERAL IN CONNECTION WITH ASSISTANCE IN PROCEDURAL PROBLEMS

<sup>145</sup> G A resolution 55/95, para. 1.

<sup>146</sup> G A resolution 61/167, para. 10.

<sup>147</sup> G A resolution 63/166, para. 36.

<sup>148</sup> G A resolution 58/27 A – B, B, preamble.

<sup>149</sup> G A resolution 59/197, para. 12.

<sup>150</sup> G A resolution 62/91, para. 17.

<sup>151</sup> G A resolution 55/240, para. 4.

<sup>152</sup> G A resolution 55/163, para. 20.

42. The General Assembly requested, *inter alia*, the Secretary-General to submit, for approval, the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal as soon as possible but no later than at its sixty-fourth session;<sup>153</sup> and to issue the rules of procedure of the General Assembly in a consolidated version in all official languages, in print and online.<sup>154</sup> The Economic and Social Council requested, *inter alia*, the Secretary-General to disseminate widely to the community of non-governmental organizations all available information on accreditation procedures for their participation in the work of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities.<sup>155</sup>

#### 4. FUNCTIONS OF THE SECRETARY-GENERAL IN CONNECTION WITH THE DRAFTING OF DOCUMENTS AND LEGAL ASSISTANCE

43. The Secretary-General continued to assist United Nations organs in the drafting of conventions and other documents and to prepare studies on legal subjects and to provide assistance to States in the implementation of various conventions, rules and legal principles.<sup>156</sup>

44. The General Assembly, *inter alia*, requested the Secretary-General to continue to render the necessary assistance to the depositary Governments of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction and to provide such services as may be required for the implementation of the decisions and recommendations of the Review Conferences, including all necessary assistance to the annual meetings of the States parties and the meetings of experts.<sup>157</sup> In its resolution 55/61, the General Assembly requested the Secretary-General to prepare a report analysing all relevant international legal instruments, other documents and recommendations addressing corruption, considering, *inter alia*, obligations as regards criminalization of all forms of corruption and international cooperation, regulatory aspects of corruption and the relationship between corruption and money-laundering, and to submit it to the Commission on Crime Prevention and Criminal Justice.<sup>158</sup> In its resolution 58/185, the General Assembly requested the Secretary-General to conduct an in-depth study on all forms and manifestations of violence against women on, *inter alia*, identification of best practice examples in areas including legislation, policies, programmes and effective remedies, and the efficiency of such mechanisms to the end of combating and eliminating violence against women.<sup>159</sup> In its resolution 2004/24, the Economic and Social Council

<sup>153</sup> G A resolution 63/253, part 3, para. 29.

<sup>154</sup> G A resolution 60/286, annex, cluster III, para. 24.

<sup>155</sup> E S C resolution 2003/12, para. 5.

<sup>156</sup> See *Repertory, Supplement No. 7*, vol. VI, under Article 98, paras. 75 – 82; *Repertory, Supplement No. 8*, vol. VI, under Article 98, paras. 48 – 58; and *Repertory, Supplement No. 9*, vol. VI, under Article 98, paras. 50 – 57.

<sup>157</sup> G A resolutions 55/40, para. 6; 58/72, para. 4; 59/110, para. 4; 60/96, para. 6; 61/102, para. 7; 62/60, para. 6; 63/88, para. 7.

<sup>158</sup> G A resolution 55/61, para. 3.

<sup>159</sup> See, G A resolution 58/185 (a).

requested the Secretary-General to convene an open-ended intergovernmental expert group to prepare a draft model bilateral agreement on sharing confiscated proceeds of crime covered by the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.<sup>160</sup>

45. The General Assembly requested the Secretary-General to render the necessary assistance and to provide such services, including summary records, as may be required for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and its Preparatory Committee;<sup>161</sup> and to continue providing summary records of the United Nations Commission on International Trade Law's meetings relating to the formulation of normative texts.<sup>162</sup>

46. The General Assembly expressed its appreciation to the Secretary-General for his constructive efforts to promote training and assistance in international law within the framework of the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law in 2000 and 2001<sup>163</sup> and requested him to continue to publicize the Programme.<sup>164</sup>

47. The Assembly invited the Secretary-General to intensify efforts to assist States to become parties to the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, including by providing assistance with a view to achieving universal adherence;<sup>165</sup> and requested him, *inter alia*, to keep it informed of the steps he takes to secure the widespread dissemination and promotion of the Declaration on the Protection of All Persons from Enforced Disappearance.<sup>166</sup>

48. The General Assembly requested the Secretary-General to convene, *inter alia*, a high-level political conference for the purpose of signing the Convention against Corruption.<sup>167</sup>

49. The Assembly requested the Secretary-General to provide all the facilities and assistance necessary for the active promotion of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families through the programme of advisory services and technical cooperation in the field of human rights;<sup>168</sup> to provide, in accordance with resolution 54/4, the resources, including staff and facilities, necessary for the effective functioning of the Committee on the Elimination of Discrimination against Women within its full mandate, in particular taking into

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<sup>160</sup> E S C resolution 2004/24, para. 1.

<sup>161</sup> G A resolution 56/24 O, para. 2.

<sup>162</sup> G A resolution 60/20, para. 11.

<sup>163</sup> G A resolution 56/77, para. 3.

<sup>164</sup> See, for example, *ibid.* para. 12.

<sup>165</sup> G A resolution 62/170, para. 3.

<sup>166</sup> G A resolution 55/103, para. 19.

<sup>167</sup> G A resolution 57/169, para. 3.

<sup>168</sup> G A resolution 59/262, para. 9.

account the entry into force of the Optional Protocol;<sup>169</sup> and encouraged him to continue to assist States parties to the International Covenants on Human Rights in the preparation of their reports, including by convening seminars or workshops at the national level for the training of government officials engaged in the preparation of such reports and by exploring other possibilities available under the programme of advisory services in the field of human rights.<sup>170</sup>

50. The General Assembly requested the Secretary-General to take steps to ensure the independence of the United Nations Administrative Tribunal and the separation of its secretariat from the Office of Legal Affairs, to study the possibility of its financial independence and to report thereon to the General Assembly at its fifty-eighth session.<sup>171</sup> The Economic and Social Council, *inter alia*, requested the Secretary-General to prepare, within existing resources or drawing upon extra-budgetary contributions, in coordination with other competent entities of the United Nations system, a report analysing the domestic, bilateral, regional and multilateral legal provisions and other relevant documents, resolutions and recommendations dealing with illicit access to genetic resources and also the extent to which organized criminal groups are involved therein;<sup>172</sup> approved the questionnaire on United Nations standards and norms related primarily to victim issues, annexed to the report of the Secretary-General on the results of the meeting of the Intergovernmental Expert Group to Develop an Information-Gathering Instrument on United Nations Standards and Norms Related Primarily to Victim Issues;<sup>173</sup> and took note with appreciation of the report of the Secretary-General on strengthening basic principles of judicial conduct.<sup>174</sup>

### C. Financial functions of the Secretary-General

#### 1. AUTHORITY TO ENTER INTO COMMITMENTS TO MEET UNFORESEEN AND EXTRAORDINARY EXPENSES

51. During the period under review, the biennial budget cycle continued and at each regular session held in an odd year, the General Assembly maintained its practice of renewing, for the following biennium, the authority of the Secretary-General to enter into commitments to meet unforeseen and extraordinary expenses for the following biennium.<sup>175</sup>

52. The conditions under which the authority was to be exercised remained, in substance, as described in *Supplement No. 9*, except that, beginning with the 2006-2007 biennium: (a) the ceiling on expenses relating to the designation of *ad hoc* judges was

<sup>169</sup> G A resolution 55/70, para. 12.

<sup>170</sup> G A resolution 60/149, para. 25.

<sup>171</sup> G A resolution 57/307, para. 5.

<sup>172</sup> E S C resolution 2001/12, para. 4.

<sup>173</sup> E S C resolution 2007/21, para. 4.

<sup>174</sup> E S C resolution 2007/22, para. 1.

<sup>175</sup> See G A resolutions 56/256; 58/273; 60/249; 62/239; and 64/246.

lowered from \$330,000 to \$200,000;<sup>176</sup> and (b) the former \$500,000 ceiling on expenses certified by the Secretary-General as being required for inter-organizational security measures designated pursuant to section IV of General Assembly resolution 36/235 of 18 December 1981 was replaced by a \$1,000,000 ceiling on expenses certified by the Secretary-General as being required for inter-organizational security measures designated pursuant to section XI, paragraph 6, of General Assembly resolution 59/276 of 23 December 2004.<sup>177</sup>

## 2. AUTHORITY TO BORROW FROM SPECIAL FUNDS AND ACCOUNTS OR FROM GOVERNMENTAL SOURCES

53. During the period under review, the General Assembly maintained its practice of renewing, for the following biennium, the Secretary-General's authority to utilize cash from special funds and accounts in his custody, or the proceeds of loans authorized by the Assembly, to meet the purpose normally related to the Working Capital Fund.<sup>178</sup>

## 3. AUTHORITY RELATING TO SPECIAL ACCOUNTS AND FUNDS

54. During the period under review, the Secretary-General continued to be requested or authorized to establish special accounts for operations or activities of the Organization<sup>179</sup> For example, the Secretary-General was authorized to establish special accounts, *inter alia*, for the United Nations Mission in Liberia,<sup>180</sup> the United Nations Operation in Côte d'Ivoire,<sup>181</sup> the United Nations Stabilization Mission in Haiti,<sup>182</sup> the United Nations Integrated Mission in Timor-Leste<sup>183</sup> and the African Union-United Nations Hybrid Operation in Darfur.<sup>184</sup> The Security Council, for example, also requested the Secretary-General to make the necessary arrangements to support the work of a mechanism established in part to monitor the implementation of the measures against Al-Qaida and the Taliban and associated individuals and entities imposed by resolutions 1267 (1999) and 1333 (2000), as an expense of the Organization and through a United Nations Trust Fund established for that purpose.<sup>185</sup>

55. Furthermore, the Secretary-General continued to be requested or authorised to establish and monitor other funds during the period under review. For example, the General Assembly adopted, *inter alia*, resolutions 57/276, in which it welcomed the

<sup>176</sup> Compare, for example, G A resolutions 56/256, para. 1(b)(i) ;58/273, para. 1(b)(i) with G A resolutions 60/249, para. 1(b)(i); 62/239, para. 1(b)(i).

<sup>177</sup> Compare, for example, G A resolution 58/273, para. 1(c) with G A resolution 60/249, para. 1(c).

<sup>178</sup> See G A resolutions 56/257, para. 6; 58/274, para. 6; 60/250, para. 6; 62/240, para. 6; and 64/247, para. 6.

<sup>179</sup> See, for example, G A resolutions 55/237, para. 10; 58/310, para. 11; 58/312, para. 9; and 62/233, para. 21.

<sup>180</sup> G A resolution 58/261, para. 9.

<sup>181</sup> G A resolution 58/310, para. 11.

<sup>182</sup> G A resolution 58/311, para. 9.

<sup>183</sup> G A resolution 61/249, para. 15.

<sup>184</sup> G A resolution 62/232, para. 42.

<sup>185</sup> S C resolution 1363 (2001), paras. 3(a) and 9.

decision of the Secretary-General to establish a trust fund to support the activities of the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States<sup>186</sup> and 59/291, in which it requested the Secretary-General to establish a trust fund to enhance the participation of representatives of non-governmental organizations and civil society organizations from developing countries in the informal interactive hearings held in preparation for a high-level plenary meeting of the General Assembly to be convened in 2005.<sup>187</sup> In addition, in its resolution 63/211 of 19 December 2008, the General Assembly decided to establish an Eastern Mediterranean Oil Spill Restoration Trust Fund, based on voluntary contributions, to provide assistance and support to the States directly adversely affected in their integrated environmentally sound management, from clean-up to safe disposal of oily waste, of the environmental disaster resulting from the destruction of the oil storage tanks at El-Jiyeh electric power plant, and requested the Secretary-General to mobilize international technical and financial assistance in order to ensure that the Trust Fund had sufficient and adequate resources.<sup>188</sup> In 2002, the Security Council also requested the Secretary-General to establish a Trust Fund for Peace-Building in Somalia to support the preparatory activities on the ground for a comprehensive peace-building mission.<sup>189</sup>

#### 4. AUTHORITY TO ACCEPT VOLUNTARY CONTRIBUTIONS

56. During the period under review, the Secretary-General continued to be requested to seek voluntary contributions to defray the costs of operational activities of the Organization. For example, in resolution 56/180, the General Assembly requested the Secretary-General to seek voluntary contributions to facilitate the preparations for the International Ministerial Meeting of Landlocked and Transit Developing Countries and Donor Countries and International Financial and Development Institutions on Transit Transport Cooperation;<sup>190</sup> in resolution 56/227, the General Assembly requested the Secretary-General to continue to seek voluntary contributions for the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States;<sup>191</sup> and in resolution 57/242, the General Assembly requested the Secretary-General to continue to seek voluntary contributions to facilitate the preparations for the International Ministerial Conference on Transit Transport Cooperation and, in particular, the participation of representatives of landlocked developing countries, transit developing countries and the least developed countries in the intergovernmental preparatory meetings and in the Conference itself.<sup>192</sup> The Assembly made a similar request to the Secretary-General in support of the follow-up to the International Conference on Financing for Development.<sup>193</sup>

<sup>186</sup> G A resolution 57/276, para. 4.

<sup>187</sup> G A resolution 59/291, para. 9.

<sup>188</sup> G A resolution 63/211, paras. 6, 7.

<sup>189</sup> S/PRST/2002/8.

<sup>190</sup> G A resolution 56/180, para. 18.

<sup>191</sup> G A resolution 56/227, para. 9.

<sup>192</sup> G A resolution 57/242, para. 11.

<sup>193</sup> G A resolution 57/273, para. 8.

## 5. FUNCTIONS EXERCISED IN CONNECTION WITH THE FINANCIAL SITUATION OF THE UNITED NATIONS

57. During the period under review, the Secretary-General continued to issue his annual report on improving the financial situation of the Organization.<sup>194</sup> On 16 October 2001, the Secretary-General reported that, as a result of payments made by a number of Member States, for the first time in many years, the United Nations would have a more secure and solid base on which to do business, and that issues long held in abeyance, including delayed reimbursements for troops and equipment, cash deficits and the need to cross-borrow from peacekeeping accounts, could now be tackled.<sup>195</sup> Nevertheless, unpaid assessments continued to be regularly reported,<sup>196</sup> and on a few occasions towards the beginning of the period under review, the Secretary-General noted that he had been forced to borrow from peace-keeping operations to cover regular budget expenses.<sup>197</sup> Similarly, on several occasions, the Secretary-General reported that the financial position of the United Nations remained fragile,<sup>198</sup> and on 21 October 2009, he noted that the only way to ensure a more stable financial base for the work of the United Nations is for Member States to meet their financial obligations to the Organization in a fuller and more timely fashion.<sup>199</sup>

### D. Functions of the Secretary-General with respect to political and security matters

#### 1. FUNCTIONS EXERCISED IN CONNECTION WITH PREVIOUSLY ESTABLISHED PEACEKEEPING MISSIONS

58. The mandates of three peacekeeping missions, the United Nations Interim Force in Lebanon, the United Nations Mission in the Democratic Republic of the Congo, and the United Nations Mission in Sierra Leone were established prior to the period under review. The mandates of these missions were significantly modified by actions of the Secretary-General between the year 2000 and 2009 as outlined below.

##### *(a) The United Nations Interim Force in Lebanon*

59. In April 2000, the Israeli government formally notified the Secretary-General of its intent to withdraw its forces from Lebanon.<sup>200</sup> The withdrawal was confirmed by the

<sup>194</sup> See, for example, A/55/504; A/59/524/Add.1; and A/64/497.

<sup>195</sup> A/56/464 pp. 1 – 2, paras. 3 – 5.

<sup>196</sup> See, for example, A/57/498, paras. 12 – 13; and A/60/427, Summary, para. 2.

<sup>197</sup> See, for example, A/58/531, para. 9; and A/56/464/Add.1, para. 11.

<sup>198</sup> See, for example, A/63/514, Summary, para. 5; and A/61/556/Add.1, Summary, para. 6.

<sup>199</sup> A/64/497, Summary, para. 5.

<sup>200</sup> The United Nations Interim Force in Lebanon (UNIFIL) was established in 1978 pursuant to Security Council resolution 425 (1978) and 426 (1978) with a mandate to confirm the withdrawal of Israeli military forces from Lebanon, restore international peace and security and assist Lebanese authorities in returning its effective authority over the area. See S C resolution 425 (1978) and S C resolution 426 (1978). The notification from the Israeli Government was acknowledged in United Nations Document S/2000/322.

Secretary-General in his report of 16 June 2000.<sup>201</sup> As a result of the withdrawal, the Secretary-General outlined in his 2001 interim report on the United Nations Interim Force in Lebanon (UNIFIL), a proposal to reconfigure mission operations to focus on restoration of international peace and security.<sup>202</sup>

60. Taking action on this report, the Security Council endorsed the reconfiguration of the mission.<sup>203</sup> In 2006, when the Israeli-Hizbullah war resumed, the Security Council called on the Secretary-General in resolution 1701 (2006) to support a new and expanded mandate for UNIFIL.<sup>204</sup>

*(b) The United Nations Mission in the Democratic Republic of the Congo*

61. On 24 February 2000, relying on a report by the Secretary General,<sup>205</sup> the Security Council expanded the mandate of the United Nations Mission in the Democratic Republic of the Congo (MONUC)<sup>206</sup> to include, *inter alia*, the following tasks: establish and maintain continuous liaison with the field headquarters of the military forces of all the parties to the Ceasefire Agreement; monitor the implementation of the Ceasefire Agreement and investigate violations of the ceasefire; facilitate humanitarian assistance and human rights monitoring, with particular attention to vulnerable groups, as well as work with the parties to obtain the release of all prisoners of war, military captives and remains, in close cooperation with other agencies and organizations; provide support and assistance to the Facilitator of the National Dialogue; and deploy mine experts to develop a mine action plan and coordinate activities.<sup>207</sup>

62. Based on recommendations by the Secretary-General, the mandate of the Mission was extended by a series of Security Council resolutions<sup>208</sup> for various periods of up to

<sup>201</sup> S/2000/590, para. 40.

<sup>202</sup> S/2001/423, para. 6.

<sup>203</sup> S/2001/500.

<sup>204</sup> S C resolution 1701 (2006), para.13. The new mandate expanded the original mandate to: monitor the cessation of hostilities; accompany and support the Lebanese Armed Forces (LAF) as they deploy throughout the South, as Israel withdraws its armed forces from Lebanon; Coordinate these activities with the Governments of Lebanon and Israel; extend its assistance to help ensure humanitarian access to civilian populations and the voluntary and safe return of displaced persons; assist the LAF in taking steps towards the establishment between the Blue Line and the Litani river of an area free of any armed personnel, assets and weapons other than those of the Government of Lebanon and of UNIFIL deployed in this area; Assist the Government of Lebanon in securing its borders and other entry points to prevent the entry in Lebanon without its consent of arms or related materiel.

<sup>205</sup> S/2000/30 (2000).

<sup>206</sup> The United Nations Mission in the Democratic Republic of the Congo (MONUC) was established in November 1999 by the Security Council (see S C resolution 1279 (1999), para. 4) at the recommendation of the Secretary-General (see S/1999/790 (1999), para.17). MONUC's initial mandate was, *inter alia*, to maintain liaison with the Joint Military Commission, to maintain liaison with all parties to the ceasefire, to provide and collect security information, and to plan for the observation of the ceasefire and disengagement of forces (see S C resolution 1279 (1999), para. 5).

<sup>207</sup> S C resolution 1291 (2000), para. 7.

<sup>208</sup> S C resolution 1291 (2000); S C resolution 1316 (2000); S C resolution 1323 (2000); S C resolution 1332 (2000); S C resolution 1355 (2001); S C resolution 1417 (2002); S C resolution 1489 (2003); S C resolution 1493 (2003); S C resolution 1555 (2004); S C resolution 1565 (2004); S C resolution 1592

one year, the last of which was until May 31, 2010.<sup>209</sup> By its resolutions 1355 (2001), 1445 (2002), 1484 (2003), 1493 (2003), 1501 (2003), 1533 (2004), 1565 (2004), 1621 (2005), 1635 (2005), 1736 (2006), 1756 (2007), 1807 (2008), 1856 (2008), and 1906 (2009), the content and scope of the Mission's mandate was also modified based on recommendations by the Secretary-General.<sup>210</sup>

(c) *The United Nations Mission in Sierra Leone*

63. In February 2000, the mandate of the United Nations Mission in Sierra Leone (UNMISL)<sup>211</sup> was expanded to include various security related operations.<sup>212</sup> In December 2005, UNMISL successfully completed its mandate and, at the recommendation of the Secretary-General,<sup>213</sup> the mission was succeeded by the United Nations Integrated Office in Sierra Leone (UNIOSIL) with a mandate to, *inter alia*, help in the consolidation of the peace process, provide institutional support to the government, strengthen the local security forces, enhance the rule of law, and promote human rights.<sup>214</sup>

64. By its resolution 1793 (2007), the Security Council requested the Secretary-General to submit, for consideration, a completion strategy for UNIOSIL.<sup>215</sup> Pursuant to this request, in his report, the Secretary-General recommended that UNIOSIL be succeeded by the United Nations Integrated Peacebuilding Office in Sierra Leone (UNIPSIL).<sup>216</sup> The Secretary-General further proposed that the mandate of the new Office include *inter alia* providing political support for local efforts to resolve potential political and ethnic conflicts; to consolidate good governance reforms; to strengthen the justice sector; to support security sector reform; to implement the Peacebuilding Cooperation Framework; to analyze the human rights situation; and to support gender mainstreaming.<sup>217</sup> By its resolution 1829 (2008), the Security Council adopted the Secretary-General's recommendations and established the UNIPSIL.<sup>218</sup>

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(2005); S C resolution 1628 (2005); S C resolution 1636 (2005); S C resolution 1711 (2006); S C resolution 1742 (2007); S C resolution 1751 (2007); S C resolution 1756 (2007); S C resolution 1794 (2007); S C resolution 1856 (2008).

<sup>209</sup> S C resolution 1906 (2009), para. 1.

<sup>210</sup> S/2001/572, S/2002/1005, S/2003/574, S/2003/566, S/2003/821, S/2003/1098, S/2004/650, S/2005/320, S/2005/603, S/2006/892, S/2007/156, S/2007/671, S/2008/728, S/2009/623.

<sup>211</sup> In Sierra Leone, the United Nations Mission in Sierra Leone (UNMISL) was established in 1999 pursuant to Security Council resolution 1270 (1999) to help implement the Lome Peace Agreement and provide support for the disarmament, demobilization and reintegration plan in the country. See S C resolution 1270 (1999), para. 8.

<sup>212</sup> S C resolution 1289 (2000), para. 10,

<sup>213</sup> S/2005/273, S/2005/273/Add.2, para. 6.

<sup>214</sup> S C resolution 1620 (2005), para. 1.

<sup>215</sup> S C resolution 1793 (2007), para. 2.

<sup>216</sup> S/2008/281, para. 60.

<sup>217</sup> S/2008/281, para. 61.

<sup>218</sup> S C resolution 1829 (2008), para. 1.

## 2. FUNCTIONS EXERCISED IN CONNECTION WITH THE SITUATION IN IRAQ

65. During the period under review, the Secretary-General was actively involved in events relating to peace and security in Iraq in two main areas. As discussed below, these areas include functions exercised in connection with the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the establishment of the United Nations Assistance Mission for Iraq (UNAMI).

### *(a) United Nations Monitoring, Verification and Inspection Commission*

66. In compliance with requests made by the Security Council prior to the period under review,<sup>219</sup> the Secretary General began his efforts<sup>220</sup> to appoint an Executive Chairman and College of Commissioners for UNMOVIC. An Organizational Plan for UNMOVIC was prepared by the Executive Chairman of UNMOVIC in consultation with the Secretary-General and submitted, through him, to the Security Council, for its approval, pursuant to operative paragraph 6 of Security Council Resolution 1284<sup>221</sup>. The Secretary-General noted in his annual reports<sup>222</sup> that UNMOVIC had not yet been deployed as a result of the refusal of the Iraqi government to comply with Security Council resolutions.

67. On 16 September 2002, the Secretary-General wrote to the President of the Security Council to acknowledge that the Foreign Minister of Iraq had decided to permit the entry of United Nations weapons inspectors into Iraq.<sup>223</sup> Recognizing this letter, the Security Council adopted resolution 1441 (2002) to clarify the scope of Iraqi obligations and order compliance with UNMOVIC inspectors.<sup>224</sup>

68. Coinciding with the intervention in Iraq by coalition forces led by the United States of America and the United Kingdom, on 18 March 2003, UNMOVIC inspectors were withdrawn from Iraq. UNMOVIC officials continued to fulfill as many aspects of the mandate as they could implement from outside the country. On 29 June 2007, acknowledging the election of a democratic government in Iraq and Iraqi support for the international non-proliferation regime, the Security Council terminated the mandate and operations of UNMOVIC by its resolution 1762.<sup>225</sup>

### *(b) United Nations Assistance Mission for Iraq*

<sup>219</sup> In resolution 1284 (1999), the Security Council established UNMOVIC to verify Iraq's compliance with resolution 687 (1991) regarding weapons of mass destruction (see S C resolution 1284 (1999), para. 5).

<sup>220</sup> *Repertory, Supplement No. 8, Study on Article 98, paras. 20 – 22.*

<sup>221</sup> S/2000/292.

<sup>222</sup> A/55/1, para. 55, A/56/1, para. 31, A/57/1, para. 18.

<sup>223</sup> S/2002/1034.

<sup>224</sup> S C resolution 1441 (2002).

<sup>225</sup> S C resolution 1762 (2007), para. 1.

69. By its resolution 1483 (2003) of 22 May 2003, the Security Council requested the Secretary-General to appoint a Special Representative for Iraq whose mandate would be to, *inter alia*, report regularly to the Council, co-ordinate post conflict activities of the United Nations and agencies involved in humanitarian assistance and reconstruction, and work with the Authority and the people of Iraq to advance efforts to restore and establish national and local institutions for representative governance, including by working together to facilitate a process leading to an internationally recognized, representative government of Iraq.<sup>226</sup> The contents of this mandate were further expanded by the adoption of Security-Council resolution 1546 (2004) to include, *inter alia*: assist in convening a conference to select a Consultative Council; provide advice and support on the process for holding elections; promote national dialogue on the drafting of a national constitution; provide advice regarding the development of effective civil and social services; contribute to delivery of reconstruction, development, and humanitarian assistance; promote and protect human rights and the rule of law; and advise the government regarding the future establishment of a national census.<sup>227</sup>

70. In his report of 17 July 2003, submitted pursuant to Security Council resolution 1483 (2003), the Secretary-General delineated his recommendations regarding the structure and responsibilities of United Nations operations in Iraq.<sup>228</sup> Having considered the Secretary-General's report, by its resolution 1500 (2003) of 14 August 2003, the Security Council established the United Nations Assistance Mission for Iraq (UNAMI), to support the Secretary-General in the fulfillment of his mandate under resolution 1483 (2003) and to support the recommendations outlined in the report.<sup>229</sup>

71. On 27 May 2003, the Secretary-General fulfilled the request of the Security Council to appoint a Special Representative and notified the Security Council through an exchange of letters of the appointment of Sergio Vieira de Mello as his Special Representative to Iraq.<sup>230</sup> On 19 August 2003 Sergio Vieira de Mello was killed along with fourteen other United Nations staff members in a terrorist attack targeting United Nations headquarters to the UNAMI.

72. The Secretary-General, by a letter dated 22 August 2003 addressed to the President of the Security Council, informed the Council that, due to the untimely death of his Special Representative, he had appointed, on an interim basis, Mr. Ramiro Lopes da Silva as his acting Special Representative.<sup>231</sup> Pursuant to letters to the President of the Security Council, the Secretary-General appointed Ashraf Jehangir Qazi in 2004,<sup>232</sup> Staffan de Mistura in 2007,<sup>233</sup> and Ad Melkert in 2009<sup>234</sup> as his Special Representatives to Iraq.

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<sup>226</sup> S C resolution 1483 (2003), para. 8.

<sup>227</sup> S C resolution 1546 (2004), para. 7.

<sup>228</sup> S/2003/715.

<sup>229</sup> S C resolution 1500 (2003).

<sup>230</sup> S/2003/570, S/2003/571.

<sup>231</sup> S/2003/830.

<sup>232</sup> S/2004/563.

<sup>233</sup> S/2007/533, S/2007/534.

<sup>234</sup> S/2009/346, S/2009/347.

73. In a report dated 5 December 2003,<sup>235</sup> the Secretary-General stated that, as a result of the wanton attacks in Baghdad on 19 August 2003, as well as a series of subsequent terrorist attacks targeting UN and international personnel, and relying on the report by the Independent Panel on the Safety and Security of United Nations Personnel in Iraq, he had decided to temporarily reduce the number of anticipated staff and relocate the core of the UNAMI mission to Nicosia and other offices in the region.<sup>236</sup> The Secretary-General envisaged that UNAMI would eventually grow in size to approximately 60 international staff as security conditions permitted and would return to operations from within Iraq. In an exchange of letters between the Secretary-General and the President of the Security Council of 21 September and 1 October of 2004, the Secretary-General proposed the establishment of an integrated United Nations Security Structure in order to deploy UNAMI personnel into Iraq. The Council welcomed these arrangements and urged Member States to respond positively with contributions.<sup>237</sup>

74. Subsequent to the formation of a sovereign Interim Government in Iraq,<sup>238</sup> the Security Council decided that the mandate of the Special Representative of the Secretary-General and the UNAMI shall be to, *inter alia*, assist and support the Independent Electoral Commission in Iraq, promote national dialogue regarding the drafting of a national constitution, advise and coordinate efforts regarding humanitarian assistance, rebuilding, development of social services, and advise on planning for conduct of a national census.<sup>239</sup>

75. The mandate of the Special Representative of the Secretary-General and UNAMI was further adapted and expanded in August 2007, pursuant to resolution 1770 (2007), to include, *inter alia*, assist in promoting national dialogue and reconciliation, support the government of Iraq in implementation of constitutional provision, support the government in the areas of humanitarian assistance, coordination with international donors, economic reform, development of social services, and the strengthening of the rule of law.<sup>240</sup>

76. From August 2004 to August 2009, the Security Council adopted six resolutions<sup>241</sup> based on recommendations of the Secretary-General<sup>242</sup> and requests from the Government of Iraq<sup>243</sup> to extend the mandate of UNAMI for further periods of one year, the last of which, for the period under review, was until 7 August 2010.

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<sup>235</sup> S/2003/1149.

<sup>236</sup> S/2003/1149, paras. 92 – 94.

<sup>237</sup> S/2004/764 and S/2004/765.

<sup>238</sup> Pursuant to Security Council resolution 1546 (2004), the Interim Government would have full sovereignty, independence, responsibility and authority of Iraq by 30 June 2004.

<sup>239</sup> S C resolution 1546 (2004), para. 7.

<sup>240</sup> S C resolution 1770 (2007), para. 2.

<sup>241</sup> S C resolution 1557 (2004), S C resolution 1619 (2005), S C resolution 1700 (2006), S C resolution 1790 (2007), S C resolution 1830 (2008), S C resolution 1883 (2009).

<sup>242</sup> S/2004/625, S/2005/509, S/2006/601.

<sup>243</sup> S/2006/60, S/2007/481, annex; S/2008/523, annex; S/2009/395, annex.

### 3. FUNCTIONS EXERCISED IN CONNECTION WITH THE SITUATION IN AFGHANISTAN

77. Subsequent to the signing of the “Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions” (Bonn Agreement)<sup>244</sup> on 5 December 2001, the Security Council endorsed the Agreement in resolution 1383 (2001).<sup>245</sup>

78. The Bonn Agreement called for the United Nations and the Secretary-General’s Special Representative to Afghanistan to play a major role in promoting peace and security in Afghanistan. The Agreement called for the United Nations to play a role in, *inter alia*, the administration of the Agreement, provision of advice to the Interim Authority, and coordination of signatories and the international community in efforts to combat terrorism and support the Authority in rebuilding of Afghanistan.<sup>246</sup>

79. Pursuant to a request by the Security Council,<sup>247</sup> the Secretary-General presented a report to the Council that proposed a structure for the United Nations political presence in Afghanistan in accordance with its responsibilities under the Bonn Agreement.<sup>248</sup> The report proposed the creation, mandate, and operating procedures of a United Nations Assistance Mission in Afghanistan (UNAMA).<sup>249</sup> By its resolution 1401 (2002), the Security Council endorsed those recommendations.<sup>250</sup>

80. The initial mandate of UNAMA was to: fulfill the tasks and responsibilities, including those related to human rights, the rule of law and gender issues, entrusted to the United Nations in the Bonn Agreement, which were endorsed by the Security Council in its resolution 1383 (2001); promote national reconciliation and *rapprochement* throughout the country, through the good offices role of the Secretary-General’s Special Representative; and manage all United Nations humanitarian relief, recovery and reconstruction activities in Afghanistan, under the overall authority of his Special Representative and in coordination with the Interim Authority and successor administrations of Afghanistan.<sup>251</sup>

81. In accordance with the proposal of the Secretary-General, the overall structure of the Mission included the Office of the Special Representative of the Secretary-General, a political affairs branch (or pillar) and a relief, recovery and reconstruction branch (or pillar).<sup>252</sup> In March 2003, the Secretary-General proposed the establishment of an Electoral Assistance Division within UNAMA to prepare and organize the electoral

<sup>244</sup> S/2001/1154. The Bonn Agreement established a plan for the governance of Afghanistan following the American intervention in Afghanistan.

<sup>245</sup> S C resolution 1383 (2001).

<sup>246</sup> S/2001/1154, annex II, annex III.

<sup>247</sup> S C resolution 1383 (2001), para. 4.

<sup>248</sup> S/2002/278 – A/56/875.

<sup>249</sup> S/2002/278 – A/56/875, paras. 95, 97 – 98.

<sup>250</sup> S C resolution 1401 (2002), para. 1.

<sup>251</sup> S/2002/278 – A/56/875, para. 97.

<sup>252</sup> S/2002/278 – A/56/875.

process and to coordinate international electoral assistance.<sup>253</sup> This proposal was adopted by the Security Council on 23 March 2003.<sup>254</sup>

82. By a series of six resolutions,<sup>255</sup> the Security Council decided, on the basis of reports by the Secretary-General,<sup>256</sup> to extend the mandate of the UNAMA for further periods of one year, the last of which, for the period under review, ended on 10 March 2010.

83. The Secretary-General, in his March 2006 report on the situation in Afghanistan, delineated proposals for the adjustment of UNAMA's mandate based on his assessment of the inability of the institutions established under the Bonn Agreements to meet the evolving challenges faced by a majority of Afghan people.<sup>257</sup> Subsequent to the launching of the Afghanistan Compact on 31 January 2006, by its resolution 1662 (2006) of 23 March 2006,<sup>258</sup> the Security Council endorsed the recommendations of the Secretary-General to have a mandate encompassing the following elements: providing political and strategic advice for the peace process; providing good offices; assisting in the coordination and monitoring of the implementation of the Afghanistan Compact; continuing to promote and monitor human rights violations and capacity-building of national institutions; continuing to provide technical assistance; and continuing to manage all humanitarian relief, reconstruction and development activities under the overall authority of the Special Representative and in coordination with the government.<sup>259</sup>

84. Subsequently, by its resolutions 1746 (2007), 1806 (2008), 1817 (2008), and 1868 (2009), the Security Council highlighted the following issues: the importance of respect for human rights and international humanitarian law; the importance of reinforcing Afghan ownership and leadership; concerns regarding the vulnerability of citizens in armed conflict; concerns regarding recruitment of children by Taliban forces; concerns regarding gender discrimination and violence against women; and concerns regarding the proliferation of drug production and trafficking; and requested the Secretary-General to continue to highlight these issues in his reports to the Security Council and, where possible, strengthen efforts in related components of UNAMA.<sup>260</sup>

#### 4. FUNCTIONS EXERCISED IN CONNECTION WITH THE SITUATION IN KOSOVO

<sup>253</sup> S/2003/333 – A/57/62, paras. 15, 18.

<sup>254</sup> S C resolution 1471 (2003), para. 2.

<sup>255</sup> S C resolution 1471 (2003), S C resolution 1536 (2004), S C resolution 1589 (2005), S C resolution 1662 (2006), S C resolution 1746 (2007), S C resolution 1806 (2008), S C resolution 1868 (2009).

<sup>256</sup> S/2004/230, S/2005/183, S/2006/145, S/2007/152, S/2008, 159, S/2009/135.

<sup>257</sup> S/2006/145 – A/60/172, para. 48. The report referred to such challenges as security concerns, lack of law enforcement, drug trafficking, lack of basic services and human rights violations.

<sup>258</sup> S C resolution 1662 (2006).

<sup>259</sup> S/2006/145 – A/60/172, para. 52.

<sup>260</sup> S C resolution 1746 (2007), S C resolution 1806 (2008), S C resolution 1817 (2008), S C resolution 1868 (2009).

85. During the period under review, the Security Council did not adopt any new resolutions relating to the United Nations Interim Administration Mission in Kosovo (UNMIK) established pursuant to resolution 1244 (1999), and the Mission continued its efforts to help consolidate peace and establish fully functioning democratic institutions in Kosovo.<sup>261</sup> Throughout the period under review, the Secretary-General continued to submit reports at regular intervals regarding the implementation of the Mission's mandate.<sup>262</sup>

86. In his report of 6 June 2000, the Secretary-General explained that he had decided to formally close the humanitarian affairs pillar of the mission because the emergency relief needs of Kosovo had been met.<sup>263</sup> A Humanitarian Coordinator was appointed to work closely with the Special Representative and the remaining three pillars,<sup>264</sup> to facilitate transition to reconstruction and development. On 7 June 2001 the Secretary-General announced the creation of a police and justice pillar that would operate within UNMIK.<sup>265</sup>

87. After successful elections at the municipal level in October 2000,<sup>266</sup> the Secretary-General noted in a subsequent report that the primary focus of UNMIK activities was the preparation for Kosovo-wide elections and transfer of authority to municipal authorities.<sup>267</sup> On 17 November 2001, elections were held in Kosovo and the Secretary-General noted that the coalition agreement reached in February 2002 regarding the formation of the National Assembly would pave the way for a transfer of authority from the UNMIK to the newly formed government.<sup>268</sup>

88. On 24 October 2005, the Security Council declared it was time to begin the political process to determine the future status of Kosovo.<sup>269</sup> Pursuant to this statement, the Secretary-General endorsed the recommendations made in a report by his Special Envoy on Kosovo's future status.<sup>270</sup> The Comprehensive Proposal recommended independence for Kosovo that would be supervised by the international community and requested the Security Council to endorse the Kosovo Status Settlement proposal upon which independence would be based.<sup>271</sup>

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<sup>261</sup> S C resolution 1244 (1999); see also *Repertory, Supplement No. 9*, study under article 98, paras. 3 – 9.

<sup>262</sup> S C resolution 1244 (1999), para. 20.

<sup>263</sup> S/2000/538, para. 66.

<sup>264</sup> The three other pillars included: the institution building pillar headed by the Organization for Security and Cooperation in Europe (OSCE), the economic reconstruction pillar headed by the European Union, and the civil administration pillar headed by the United Nations.

<sup>265</sup> S/2001/565, para. 38.

<sup>266</sup> S/2000/1196.

<sup>267</sup> S/2001/926.

<sup>268</sup> S/2002/436, para. 2.

<sup>269</sup> S/PRST/2005/51.

<sup>270</sup> S/2007/168. The report contained an addendum entitled "Comprehensive Proposal for the Kosovo Status Settlement" (S/2007/168/Add.1), which was also fully supported by the Secretary-General.

<sup>271</sup> S/2007/168, S/2007/168/Add.1.

89. Following the release of the Secretary-General's Comprehensive Proposal and of a report of the Security Council mission on the Kosovo issue,<sup>272</sup> Belgium, France, Germany, Italy, the United States of America and the United Kingdom presented to the Security Council a draft resolution on Kosovo.<sup>273</sup> The draft resolution was withdrawn on 20 July 2007 after failing to garner Russian support. The Secretary-General responded to the draft resolution by noting in a report that, despite the failure of the Council to adopt the draft resolution, UNMIK remained committed to the Comprehensive Proposal for the Kosovo Status Settlement.<sup>274</sup> Further, the Secretary-General cautioned that, while the Mission would continue to support the legislative agenda of the Kosovo government, "there are indications, however, that the commitment of the Provisional Institutions of Self-Government to the legislative agenda may come into question should there be a lack of progress on the determination of the future status of Kosovo."<sup>275</sup>

90. By his report of 3 January 2008, the Secretary-General noted the readiness of the European Union to play an enhanced role in Kosovo and to provide further institutional support.<sup>276</sup> In particular, the European Union Rule of Law Mission to Kosovo (EULEX) was deployed in December 2008, and assumed responsibility in the areas of policing, justice and customs.<sup>277</sup> While EULEX continued to operate under the overall authority of the United Nations, its presence significantly reduced the role of UNMIK in Kosovo.<sup>278</sup>

91. The Secretary-General clarified the diminished and reconfigured role of UNMIK in the aftermath of Kosovo's declaration of independence and the coming into force of Kosovo's constitution.<sup>279</sup> Despite reconfiguration of the UNMIK offices,<sup>280</sup> and operations,<sup>281</sup> the Secretary-General noted that "As is evident from the developments on the ground, my Special Representative is facing increasing difficulties in exercising his mandate owing to the conflict between resolution 1244 (1999) and the Kosovo Constitution, which does not take UNMIK into account". In response to questions raised by the Kosovo authorities in relation to the authority of UNMIK in a Kosovo being governed under the new Constitution, the Secretary-General further noted that "while my Special Representative is still formally vested with executive authority under resolution

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<sup>272</sup> S/2007/256.

<sup>273</sup> S/2007/437.

<sup>274</sup> S/2007/582, para. 5.

<sup>275</sup> S/2007/582, para. 5.

<sup>276</sup> S/2007/768, para. 35.

<sup>277</sup> S/2008/692, para. 23.

<sup>278</sup> S/2008/692, para. 23.

<sup>279</sup> S/2008/692, para. 21. It was noted by the Secretary-General that the new constitution did not make any mention of the role of UNMIK in the country.

<sup>280</sup> S/2008/692. On 26 June 2008, UNMIK formally announced the beginning of the reconfiguration process for the Mission that would include the amalgamation of the Department of Civil Administration and the Office of Communities, Returns and Minority Affairs into the Mission's Office of Political Affairs.

<sup>281</sup> S/2008/354. The primary operational change in the reconfiguration process was the enhanced role played by the European Union who gradually took over responsibilities in the areas of international policing and justice in Kosovo. The United Nations presence was limited to: monitoring and reporting; facilitating, where necessary and possible, arrangements for Kosovo's engagement in international agreements; facilitating dialogue between Pristina and Belgrade on issues of practical concern; and functions related to dialogue concerning implementation of the reconfiguration process.

1244 (1999), he is unable to enforce this authority. In reality, such authority can be exercised only if and when it is accepted as the basis for decisions by my Special Representative. This situation led to the issuance of very few executive decisions by the Secretary-General Special Representative”.<sup>282</sup>

92. In his last report during the period under review,<sup>283</sup> the Secretary-General noted that, while UNMIK’s mandate under resolution 1244 (1999) remained in force unless the Security Council decides otherwise, changing circumstances on the ground and greater involvement by non-UN actors had led to a gradual adjustment of the profile and size of the Mission.

## 5. FUNCTIONS EXERCISED IN CONNECTION WITH THE SITUATION IN TIMOR-LESTE

### (a) *United Nations Transitional Administration in East Timor*

93. In compliance with a Security Council resolution adopted prior to the period under review,<sup>284</sup> the Secretary-General presented his first report to the Council regarding the activities of the United Nations Transitional Administration in East Timor (UNTAET) and developments in East Timor on 26 January 2000.<sup>285</sup> Implementing the recommendations of the Secretary-General,<sup>286</sup> the Security Council twice extended the mandate of UNTAET<sup>287</sup> until 20 May 2002 when East Timor declared independence. During this period, UNTAET continued to exercise legislative and executive authority to support capacity-building for self-government in East Timor.

### (b) *United Nations Mission of Support in East Timor*

94. By its resolution 1338 (2001), the Security Council requested the Secretary-General to provide recommendations for a substantial international presence in East Timor following independence.<sup>288</sup> Plans for a successor mission began in 2001<sup>289</sup> and in his report submitted under resolution 1392 (2002), as requested by the Security Council,<sup>290</sup> the Secretary-General clarified his suggestions for the mandate of a successor mission. Adopting the recommendations of the Secretary-General, the Security Council, by its resolution 1410 (2002), decided to establish a United Nations Mission of Support in East Timor (UNMISSET).<sup>291</sup> In accordance with resolution 1392 (2002), the mandate of UNTAET was terminated on 20 May 2002.

<sup>282</sup> S/2008/692, para. 21.

<sup>283</sup> S/2009/497.

<sup>284</sup> In resolution 1272 (1999), the Security Council established the United Nations Transitional Administration in East Timor (UNTAET). See S C resolution 1272 (1999), para. 1.

<sup>285</sup> S/2000/53.

<sup>286</sup> S/2001/42, S/2002/80.

<sup>287</sup> S C resolution 1338 (2001), S C resolution 1392 (2002).

<sup>288</sup> S C resolution 1338 (2001), para. 11.

<sup>289</sup> S/2002/432, para. 62.

<sup>290</sup> S C resolution 1392 (2002).

<sup>291</sup> S C resolution 1410 (2002), para. 1.

95. Reflecting the recommendations of the Secretary-General,<sup>292</sup> the UNMISET was comprised of a civilian, police and military component and had a mandate to: provide assistance to core administrative structures critical to the viability and political stability; provide interim law enforcement and public security; and contribute to internal and external security.<sup>293</sup>

96. Throughout the operation of UNMISET, the Secretary-General continued, pursuant to paragraph 13 of resolution 1410 (2002),<sup>294</sup> to report on the progress and developments of the mandate. In his special report of 13 February 2004, the Secretary-General recommended the modification of the UNMISET mandate and reduction in size of the mission as part of a consolidation phase.<sup>295</sup>

97. On the basis of recommendations by the Secretary-General,<sup>296</sup> the Security Council extended the mandate of UNMISET until 20 May 2005 by a series of two resolutions.<sup>297</sup> The Secretary-General's recommendations<sup>298</sup> were further adopted by the Security Council in resolution 1543 (2004) and the mandate of UNMISET was modified to consist of the following elements: support for the public administration and justice system of Timor-Leste and for justice in the area of serious crimes; support to the development of law enforcement; and support for the security and stability.<sup>299</sup> The mandate of UNMISET came to an end on 20 May 2005.

*(c) United Nations Office in Timor-Leste*

98. Highlighting the achievements of UNMISET, in his report of 18 February 2005, the Secretary-General noted that significant challenges remained in the areas of security and development and thus recommended a continued, though reduced, United Nations presence in Timor-Leste.<sup>300</sup> Pursuant to this recommendation, the Security Council decided, by its resolution 1599 (2005) of 28 April 2005, to establish a one-year follow up mission in Timor-Leste: the United Nations Office in Timor-Leste (UNOTIL).<sup>301</sup> The mandate of the Office would be to: support the development of critical State institutions; support further development of the police; provide training in observance of democratic governance and human rights; and monitor and review progress with respect to this mandate.<sup>302</sup>

99. The Council also requested that the Office be led by a Special Representative of the Secretary-General to direct the operations of the mission and coordinate all

<sup>292</sup> S/202/432, paras. 62 – 103.

S C resolution 1410 (2002), paras. 2 – 3.

<sup>294</sup> *Ibid.* para. 13.

<sup>295</sup> S/2004/117.

<sup>296</sup> S/2003/449, S/2004/117, S/2004/333.

<sup>297</sup> S C resolution 1480 (2003) and S C resolution 1543 (2004).

<sup>298</sup> S/2004/117, S/2004/333.

<sup>299</sup> S C resolution 1543 (2004), para. 3.

<sup>300</sup> S/2005/99.

<sup>301</sup> S C resolution 1599 (2005), para 1.

<sup>302</sup> *Ibid.* para 2.

United Nations activities in Timor-Leste through his office.<sup>303</sup> Through an exchange of letters, pursuant to this request, the Secretary-General notified the Security Council of the appointment of Sukehiro Hasegawa as his Special Representative.<sup>304</sup>

100. By three resolutions, the Security Council extended the mandate of UNOTIL for periods of two months, the last of which was up to 25 August 2006.<sup>305</sup> These resolutions contained requests for the Secretary-General to provide the Council with recommendations regarding the role of the United Nations in Timor-Leste following the expiration of the mandate of UNOTIL.<sup>306</sup>

*(d) United Nations Integrated Mission in Timor-Leste*

101. On the basis of the recommendations of the Secretary-General, outlined in his reports of 20 April 2006<sup>307</sup> and 8 August 2006,<sup>308</sup> and at the request of the Government of Timor-Leste,<sup>309</sup> the Security Council, by its resolution 1704 (2006), established the United Nations Integrated Mission in Timor-Leste (UNMIT) to succeed UNOTIL.<sup>310</sup>

102. The mandate of the UNMIT included, *inter alia*, the following tasks: supporting the Government and relevant institutions, with a view to consolidating stability, enhancing a culture of democratic governance, and facilitating political dialogue; supporting the parliamentary and presidential electoral process; ensuring the maintenance of public security; assisting in a comprehensive review of the future role and needs of the security; supporting capacity building in government institutions where expertise is required; supporting the national promotion and protection of human rights; facilitating relief and recovery assistance; implementing the recommendations of the Secretary-General outlined in his report on Justice and Reconciliation;<sup>311</sup> mainstreaming gender perspectives throughout the Mission's policies; facilitating information flow regarding upcoming elections; and ensuring the security of UN personnel.<sup>312</sup>

103. Pursuant to recommendations by the Secretary-General,<sup>313</sup> the Security Council extended the mandate of UNMIT for periods of one year, the last of which was until

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<sup>303</sup> *Ibid.* para 4.

<sup>304</sup> S/2005/356, S/2005/357.

<sup>305</sup> S C resolutions 1677 (2006); 1690 (2006) and 1703 (2006). The mandate was extended due to the eruption of political violence from April – June 2006, which led to a humanitarian and security crisis in the country. The nature and cause of the violence and ensuing crisis is delineated by the Secretary-General in his report. See S/2006/628, paras. 2 – 23, 26 – 8.

<sup>306</sup> S C resolution 1677 (2006), para. 2, S C resolution 1690 (2006), para. 5. These requests of the Security Council were also reflected in a letter from the President of the Security Council addressed to the Secretary-General, dated 29 March 2006: S/2006/196.

<sup>307</sup> S/2006/251.

<sup>308</sup> S/2006/628. In this report, the Secretary-General made subsequent recommendations regarding the mandate of UNMIT, given the events of April – June.

<sup>309</sup> S/2006/620, annex, S/2006/651, annex, S/2006/668, annex.

<sup>310</sup> S C resolution 1704 (2006).

<sup>311</sup> S/2006/580.

<sup>312</sup> S C resolution 1704 (2006), para. 4.

<sup>313</sup> S/2007/5, S/2008/26, S/2009/72.

26 February 2010.<sup>314</sup> During the period under review, the content of the Secretary-General's reports regarding UNMIT related primarily to the crisis of 2006 and the volatile security situation as highlighted by the attacks on the President and Prime Minister of Timor-Leste on 11 February 2008 and other violent attempts to destabilize the country.<sup>315</sup> In light of these events, the Secretary-General reiterated that, in order to address security concerns, in addition to supporting the reconstitution of the national police, further efforts were needed in all four of the UNMIT mandated priority areas: review and reform of the security sector; strengthening of the rule of law, including full implementation of the recommendations of the Commission of Inquiry established further to the 2006 crisis; economic and social development, including poverty alleviation and the creation of employment opportunities, and promoting a culture of democratic governance including continued efforts to facilitate political dialogue and national reconciliation.<sup>316</sup>

## 6. FUNCTIONS EXERCISED IN CONNECTION WITH THE SITUATION IN THE SUDAN

### *(a) United Nations Advance Mission in the Sudan*

104. To build on the progress made by the signing of a power sharing agreement between the Government of the Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) in 2004, the Secretary-General proposed the establishment of a special political mission, the United Nations Advance Mission in the Sudan (UNAMIS), to "ensure cohesive preparations with the United Nations country team for the Organization's role in post-conflict Sudan and establish high-level contacts as well as working relationships with the parties on the ground."<sup>317</sup>

105. By its resolution 1547 (2004), the Security Council accepted the Secretary-General's proposal and established for an initial period of three months a special political mission with the mandate of preparing for international monitoring and facilitating contacts with the parties concerned and preparing for the introduction of an envisaged peace support operation following the signing of a comprehensive peace agreement.<sup>318</sup> By a letter dated 18 June 2004, the Secretary-General informed the Security Council of his intention to appoint Jan Pronk as his Special Representative for the Sudan, who would head the peace support operation if approved by the Security Council.<sup>319</sup>

106. By a series of resolutions<sup>320</sup> based on the reports of the Secretary-General,<sup>321</sup> the Security Council extended the mandate of UNAMIS on four occasions, the last of which was until 24 March 2005.

<sup>314</sup> S C resolutions 1745 (2007), S C resolution 1802 (2008), S C resolution 1867 (2009).

<sup>315</sup> See, for example, S C resolution 1802 (2008), para. 2.

<sup>316</sup> S/2008/501, para. 54.

<sup>317</sup> S/2004/453, para. 15.

<sup>318</sup> S C resolution 1547 (2004).

<sup>319</sup> S/2004/503.

<sup>320</sup> S C resolutions 1556 (2004); 1574 (2004); 1585 (2005); and 1588 (2005).

<sup>321</sup> S/2004/763, S/2004/881.

107. In resolution 1556 (2004), the Security Council endorsed the deployment of international monitors, including the protection force envisioned by the African Union, to the Darfur region of Sudan under the leadership of the African Union<sup>322</sup>, expressed its full support for the African Union-led ceasefire commission and monitoring mission in Darfur<sup>323</sup> and requested the Secretary-General to assist the African Union with planning and assessments for its mission in the region of Darfur.<sup>324</sup> Further, as per the request of the Security Council,<sup>325</sup> the Secretary-General established an international commission of inquiry to investigate reported acts of genocide occurring in Darfur<sup>326</sup> which the Council recognized as a threat to international peace and security.<sup>327</sup>

108. By its resolution 1590 (2005), the Security Council established the United Nations Mission in the Sudan (UNMIS) and requested the Secretary-General to transfer all functions performed by the UNAMIS to UNMIS.<sup>328</sup> This decision was made after the signing of the Comprehensive Peace Agreement (CPA) by the Sudan People's Liberation Movement/Army (SPLM/A) ending the North/South conflict and based on recommendations of the Secretary-General,<sup>329</sup> the request of parties to the Peace Agreement,<sup>330</sup> and the report of the International Commission of Inquiry.<sup>331</sup>

*(b) United Nations Mission in the Sudan*

109. The mandate of UNMIS was, *inter alia*, to support implementation of the Comprehensive Peace Agreement by fulfilling a variety of tasks; facilitate and coordinate the voluntary return of refugees and internally displaced peoples; and to promote human rights, particularly for vulnerable groups such as women, children and refugees.<sup>332</sup> The Security Council also requested UNMIS to closely and continuously liaise with the African Union Mission (AMIS) in the Sudan with a view to reinforce efforts to bring peace to Darfur.<sup>333</sup>

110. In accordance with recommendations made by the Secretary-General,<sup>334</sup> the Security Council extended the mandate of UNMIS eight times, the last of which was until 30 April 2010, by a series of resolutions.<sup>335</sup>

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<sup>322</sup> S C resolution 1556 (2004), para. 2.

<sup>323</sup> *Ibid.*, para. 16.

<sup>324</sup> *Ibid.*

<sup>325</sup> S C resolution 1564 (2004), para. 12.

<sup>326</sup> S/2004/812.

<sup>327</sup> S C resolution 1564 (2004).

<sup>328</sup> S C resolution 1590 (2005), para. 10.

<sup>329</sup> S/2005/57 and Add.1, S/2005/68, S/2005/140.

<sup>330</sup> S C resolution 1590 (2005), twenty-first preambular paragraph.

<sup>331</sup> S/2005/60.

<sup>332</sup> S C resolution 1590 (2005), para. 4.

<sup>333</sup> *Ibid.* para. 2.

<sup>334</sup> S/2007/213, S/2007/624, S/2008/267, S/2009/61.

<sup>335</sup> S C resolutions 1627 (2005); 1663 (2006); 1709 (2006); 1714 (2006); 1755 (2007); 1784 (2007); 1812 (2008); and 1870 (2009).

111. In a report dated 31 January 2005 to the Security Council, the Secretary-General affirmed that “a stable Sudan requires a peaceful Darfur”.<sup>336</sup> On this basis, in a report of 28 July 2006, the Secretary-General proposed an expansion of the unified United Nations Mission in the Sudan to operate in Darfur and complement the current mandate of UNMIS regarding Darfur established under resolution 1590 (2005).<sup>337</sup> In the same report, the Secretary-General provided a detailed outline of the scope and content of the proposed mission’s operations.<sup>338</sup> By its resolution 1706 (2006), the Security Council decided, without prejudice to the existing mandate of UNMIS, in order to support the implementation of the Darfur Peace Agreement, to adopt the Secretary-General’s recommendations, thus requesting for the Secretary-General to arrange the rapid deployment of additional capabilities for UNMIS to deploy in Darfur and deciding to strengthen the personnel capacity of the Mission.<sup>339</sup>

112. Pursuant to resolution 1706 (2006), the mandate of UNMIS in Darfur was to, *inter alia*: monitor and verify implementation of the Darfur Peace Agreement and the N’djama Agreement on Humanitarian Ceasefire by conducting a variety of tasks;<sup>340</sup> coordinate with United Nations agencies to aid in the voluntary return of refugees and internally displaced people; provide humanitarian demining assistance, technical advice and coordination; and address regional security concerns with neighboring States and establish a multidimensional presence consisting of political, humanitarian, military and civilian police liaison officers in key locations in Chad and possibly in the Central African Republic.<sup>341</sup> By the same resolution, the Council also authorized a further increase of civilian and military personnel for the Mission.<sup>342</sup>

113. The Security Council was unable to deploy UNMIS to Darfur because of the Sudanese Government’s refusal to allow a United Nations led peacekeeping mission in the region. In response to this delay, the Secretary-General proposed a “light” support package in which UNMIS would provide limited logistical and material support of the African Union Mission in the Sudan (AMIS).<sup>343</sup> After consultation with the government of the Sudan,<sup>344</sup> it was agreed that this package was to be transitioned into a “heavier”

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<sup>336</sup> S/2005/57, para. 93.

<sup>337</sup> S/2006/591, para. 61.

<sup>338</sup> *Ibid.*, para. 62.

<sup>339</sup> S C resolution 1706 (2006), paras. 1, 3.

<sup>340</sup> S C resolution 1706 (2006), para. 8. Such tasks include, *inter alia*, observe and monitor movement of armed groups, investigate violations of the aforementioned agreement, maintain buffer zones to discourage violence and gain confidence of the people, monitor transborder activities, assist international actors in preparation for planned referendums, assist in education and promotion of the peace agreement to the public, assist in restructuring the police service, provide technical assistance to the Chairperson of the Darfur-Darfur Dialogue and Consultation, promote the rule of law and human rights, and ensure gender expertise within the Mission itself.

<sup>341</sup> S C resolution 1706 (2006), para. 9.

<sup>342</sup> *Ibid.*, para 3.

<sup>343</sup> S/2006/1041, para. 40, 51. The light support package was a precursor to greater United Nations involvement in Darfur. The light support package involved the provision of 105 military staff officers, 33 police advisers and 48 civilians.

<sup>344</sup> On 16 November 2006, the Secretary-General co-chaired a high-level meeting in Addis Ababa, where participants agreed to the proposed hybrid mission.

support package with a goal of ultimately establishing an African Union-United Nations (AU-UN) hybrid operation led by the Special Representative of the Secretary-General.<sup>345</sup> The agreement was endorsed in a Presidential statement of the Security Council on 19 December 2006.<sup>346</sup> The Secretary-General subsequently outlined details of the agreement in a letter to the Security Council on 24 May 2007.<sup>347</sup>

(c) *African Union/United Nations Hybrid operation in Darfur*

114. On the basis of the Secretary-General's report of 24 May 2007, by its resolution 1769 (2007), the Security Council decided to establish for an initial period of twelve months an AU-UN hybrid operation in Darfur (UNAMID).<sup>348</sup> The Council further decided to deploy the mission in accordance with the mandate set out by the Secretary-General in his report.<sup>349</sup> The mandate of UNAMID was to, *inter alia*, contribute to the restoration of security conditions to allow for the safe provision of humanitarian assistance; contribute to the protection of civilian populations; monitor and observe compliance with various ceasefire agreements and the Darfur Peace Agreement; support the political process; contribute to a secure environment for economic development and the return of refugees and internally displaced people; promote respect for human rights; promote the rule of law and the role of the judiciary and prison system; and monitor the security situation of Sudan's borders.<sup>350</sup> The Council further decided that, no later than 31 December 2007, UNAMID would assume authority from AMIS in the Darfur region.<sup>351</sup>

115. During the period under review, relying on recommendations from the Secretary-General,<sup>352</sup> the Security Council extended the mandate of UNAMID twice, the last of which was until 31 July 2010.<sup>353</sup> Throughout that period, the Secretary-General continued to report to the Security Council on the deployment and operation of the UNAMID at intervals ranging from thirty to ninety days. In his last report during the period under review, the Secretary-General noted that, in the context of on-going violence in Darfur, UNAMID continued to focus its tasks on civilian protection and delivery of humanitarian assistance.<sup>354</sup>

7. FUNCTIONS PERFORMED IN CONNECTION WITH THE ESTABLISHMENT OF THE INTERNATIONAL CRIMINAL COURT

116. On 1 July 2002, the Rome Statute of the International Criminal Court came into force. Pursuant to the Statute, the Secretary-General is responsible for fulfilling primarily

<sup>345</sup> S/2006/870, S/2006/1041, paras. 40 – 52.

<sup>346</sup> S/PRST/2006/55.

<sup>347</sup> S/2007/307.

<sup>348</sup> S C resolution 1769 (2007).

<sup>349</sup> *Ibid.* para. 1.

<sup>350</sup> S/2007/307/Rev.1

<sup>351</sup> S C resolution 1769 (2007), para. 5(c).

<sup>352</sup> S/2008/443, S/2009/352.

<sup>353</sup> S C resolutions 1828 (2008) and 1881 (2009).

<sup>354</sup> S/2008/592.

administrative tasks relating to: amendment procedures, convening a review conference of the Statute, signature, ratification and accession, and withdrawal from the Statute.<sup>355</sup>

117. By its resolution 58/79 of 9 December 2003, the General Assembly invited the Secretary-General to present a relationship agreement between the United Nations and the International Criminal Court.<sup>356</sup> Pursuant to that resolution, on 20 August 2004, the Secretary-General informed the General Assembly of the completion of negotiations and submitted a draft Relationship Agreement between the International Criminal Court and the United Nations to the General Assembly for approval.<sup>357</sup> Further to its approval by the Assembly of States Parties to the Rome Statute of the ICC<sup>358</sup>, the Agreement was approved by the General Assembly by its resolution 58/318 of 13 September 2004<sup>359</sup>. It was signed and entered into force on 4 October 2004<sup>360</sup>.

118. Pursuant to article 123 of the Rome Statute, the Secretary-General sent invitations to State parties for the convening of the Review Conference of the Rome Statute to be held from 31 May to 11 June 2010 in Kampala.<sup>361</sup> During the period under review, the conference had not yet taken place.

#### 8. FUNCTIONS PERFORMED IN CONNECTION WITH MAINTAINING THE SAFETY AND SECURITY OF UNITED NATIONS PERSONNEL

119. Subsequent to the entry into force, on 15 January 1999, of the Convention on the Safety of United Nations and Associated Personnel, adopted on 9 December 1994,<sup>362</sup> the Secretary-General recommended, in a report to the Security Council, that “the scope of the Convention of 1994 should be extended to cover other categories of United Nations and associated personnel not at present covered under the Convention, including locally recruited staff.”<sup>363</sup> Pursuant to this observation and a request from the General Assembly,<sup>364</sup> on 21 November 2000, the Secretary-General presented his report on the “Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel” to the General Assembly.<sup>365</sup> The report clarified such scope as well as the specific duties of States pursuant thereto, particularly that States have the primary responsibility to prevent and respond to threats to United Nations personnel.

<sup>355</sup> A/CONF.183/9\* of 17 July 1998, art. 121, 122, 123, 125, 126, 127, 128. For the authentic text of the Rome Statute as subsequently corrected by procès-verbaux, see *Certified True Copie XVIII-10 (corrected version)*, at [https://treaties.un.org/doc/Treaties/1998/07/19980717%2006-33%20PM/Ch\\_XVIII\\_10p.pdf](https://treaties.un.org/doc/Treaties/1998/07/19980717%2006-33%20PM/Ch_XVIII_10p.pdf)

<sup>356</sup> G A resolution 58/79, para. 8.

<sup>357</sup> A/58/874

<sup>358</sup> A/58/874/Add.1

<sup>359</sup> G A resolution 58/318.

<sup>360</sup> *United Nations Treaty Series*, vol. 2283, II-1272, p. 195-212

<sup>361</sup> A/64/356, para. 59.

<sup>362</sup> G A resolution 49/59.

<sup>363</sup> S/99/957, para. 43.

<sup>364</sup> G A resolution 54/192.

<sup>365</sup> A/55/637.

120. The recommendations made by the Secretary-General in this report were considered by the General Assembly, leading to the adoption of resolutions 55/175 of 19 December 2000<sup>366</sup> and 56/89 of 12 December 2001.<sup>367</sup> On the basis of a recommendation of the Sixth Committee,<sup>368</sup> the Assembly, by its resolution 56/89, decided to establish an Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel to consider the recommendations made in the report of the Secretary-General.<sup>369</sup> In accordance with further requests from the General Assembly<sup>370</sup> and taking into consideration the discussions of the Ad Hoc Committee,<sup>371</sup> the Secretary-General submitted two follow-up reports on the overall effectiveness of measures taken to implement the resolution and made recommendations regarding the implementation of specific Convention clauses.<sup>372</sup>

121. After further consideration by the Ad Hoc Committee and a Working Group of the Sixth Committee,<sup>373</sup> the Committee recommended the adoption of an Optional Protocol to the Convention to the General Assembly.<sup>374</sup> On 8 December 2005, the General Assembly, by resolution 60/42, adopted the Optional Protocol and requested the Secretary-General as depositary to open it for signature.<sup>375</sup> The Protocol, which supplements the 1994 Convention, was open for signature on 16 January 2006 and had not yet come into force during the period under review.

122. Subsequent to the terrorist attacks on the Headquarters of the United Nations Assistance Mission in Iraq (UNAMI) on 19 August 2003, the Security Council adopted resolution 1502 (2003) which strongly condemned all forms of violence and requested the Secretary-General to, *inter alia*: address, in all his country-specific situation reports, the issue of the safety and security of humanitarian personnel and United Nations and its associated personnel; advise the Council where field circumstances would invite a declaration of exceptional risk for the purposes of article 1 (c) of the Convention on the Safety of United Nations and Associated Personnel by the Council; bring to the attention of the Council situations in which humanitarian assistance is denied as a consequence of violence directed against humanitarian personnel and United Nations and its associated personnel; and seek inclusion of key provisions of the Convention on the Safety of United Nations and Associated Personnel in future as well as, if necessary, existing status-of-forces, status-of-missions and host country agreements negotiated between the

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<sup>366</sup> G A resolution 55/175, para. 20.

<sup>367</sup> G A resolution 56/89, para. 1.

<sup>368</sup> A/56/594 and Corr. 1.

<sup>369</sup> G A resolution 56/89, para. 7.

<sup>370</sup> G A resolution 57/28, para. 10 and G A resolution 58/82, para. 13.

<sup>371</sup> See A/57/52; A/58/52; A/59/52; and A/60/52.

<sup>372</sup> A/58/187 and A/59/226.

<sup>373</sup> At the fifty-eighth session of the General Assembly, the Sixth Committee established a Working Group on the Scope of the Legal Protection under the Convention on the Safety of United Nations and Associated Personnel in order to supplement the work of the Ad Hoc Committee.

<sup>374</sup> A/60/518.

<sup>375</sup> G A resolution 60/42, para. 1.

United Nations and those countries .<sup>376</sup> The Secretary-General, addressing the Security Council, expressed his strong support for the resolution.<sup>377</sup>

123. On 5 February 2008, the Secretary-General established the Independent Panel on Safety and Security of United Nations Personnel and Premises around the World and appointed Lakhdar Brahimi to serve as Chairperson of the Panel.<sup>378</sup> On 9 June 2008, the Panel issued its first report entitled “Towards a culture of Security and Accountability”, which was referred to by the General Assembly on 11 December 2008 in resolution 63/138.<sup>379</sup>

124. Throughout the period under review, the safety and security of humanitarian personnel and the protection of United Nations personnel remained on the agenda of the General Assembly. In the General Assembly’s annual resolution on this matter, the Secretary-General was requested to submit updated reports on the safety and security situation of United Nations personnel and progress made by the Secretary-General in pursuing accountability and assessing responsibility for all individual security incidents that involve United Nations and associated personnel.<sup>380</sup> Pursuant to these requests, beginning in 2002, the Secretary-General submitted annual reports to the General Assembly throughout the period under review, the last of which was on 28 August 2009.<sup>381</sup>

#### 9. FUNCTIONS PERFORMED IN CONNECTION WITH ENDING SEXUAL ABUSE AND EXPLOITATION BY UNITED NATIONS PERSONNEL

125. Pursuant to an investigative report by the Office of Internal Oversight Services dated 11 October 2002<sup>382</sup> which determined that United Nations personnel were implicated as perpetrators of sexual abuse and exploitation in West Africa, the Secretary-General fully endorsed the recommendations set out in the report and acknowledged the commitment of the United Nations to take appropriate steps to ensure that such acts were not permitted to occur again.<sup>383</sup>

126. Further, in its resolution 57/306, the General Assembly requested the Secretary-General to ensure that, with regard to sexual exploitation by United Nations personnel, preventative and remedial mechanisms be implemented by all peacekeeping missions.<sup>384</sup> The resolution further requested the Secretary-General to issue a bulletin on sexual abuse

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<sup>376</sup> S C resolution 1502 (2003).

<sup>377</sup> S/PV.4814,

<sup>378</sup> SG/SM/11403.

<sup>379</sup> G A resolution 63/138, para. 19.

<sup>380</sup> G A resolutions 55/175; 56/217; 57/155; 58/122; 59/211; 60/123; 61/133; 62/95; 63/183; and 64/177.

<sup>381</sup> A/57/300, A/58/344, A/59/332, A/60/223, A/61/463, A/62/324, A/63/305 and A/64/336.

<sup>382</sup> In November 2001, the Office of Internal Oversight Services was requested by the Office of the United Nations High Commissioner for Refugees to investigate allegations of sexual exploitation of female refugees by international aid workers and United Nations peacekeeping personnel operating in West African Countries, S/57/465.

<sup>383</sup> A/57/465.

<sup>384</sup> G A resolution 57/306, paras. 6 – 7.

and to report back to the General Assembly as soon as possible.<sup>385</sup> Pursuant to this request, on 9 October 2003, the Secretary-General issued a bulletin on special measures for protection from sexual exploitation and sexual abuse.<sup>386</sup> The bulletin clarified that the United Nations had a zero tolerance policy towards sexual exploitation and abuse offences for all personnel engaged in United Nations operations.

127. Subsequent to the release of the bulletin, and in the wake of widespread allegations of sexual exploitation and abuse by United Nations personnel serving in the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC),<sup>387</sup> the Secretary-General appointed Prince Zeid Ra'ad Zeid Al-Hussein of Jordan to act as his special advisor on sexual exploitation and abuse. In a letter dated 24 March 2005, the Secretary-General presented to the General Assembly, with his full endorsement, Prince Zeid's "Comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations."<sup>388</sup> The strategy was endorsed by the General Assembly on 22 June 2005.<sup>389</sup>

128. In his endorsement of the Strategy, the Secretary-General noted that sexual exploitation and abuse by United Nations personnel had done great harm to the name of peacekeeping and further noted that "United Nations peacekeeping is a noble calling and serves as an integral part of the world's efforts to maintain peace and security. Sexual exploitation and abuse by peacekeeping personnel must first be eliminated and then prevented from happening again."<sup>390</sup> With regard to the role of peacekeeping missions as tools to help maintain international peace and security, the report reiterated the comments of the Secretary-General noting that "sexual exploitation and abuse damages the image and credibility of a peacekeeping operation and damages its impartiality in the eyes of the local population, which in turn may well impede the implementation of its mandate."<sup>391</sup>

129. In April 2005, Special Committee on Peacekeeping Operations recommended that the Secretary-General develop "a comprehensive strategy for assistance to victims of sexual exploitation and abuse, including means for financial compensation" and further recommended that, until such a strategy had been implemented, "missions should provide emergency assistance to [such] victims ... within current mission budgets".<sup>392</sup> Also, in the 2005 World Summit Outcome, Member States again encouraged the Secretary-General to "submit proposals to the General Assembly leading to a comprehensive approach to victims' assistance."<sup>393</sup>

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<sup>385</sup> *Ibid.* para. 12.

<sup>386</sup> ST/SGB/2003/13.

<sup>387</sup> These allegations were investigated by the Office of Internal Oversight Services and reported on. See A/59/661. The allegations were also addressed by the Security-Council in resolution 1565 (2004) and by the Secretary-General in his report on MONUC. See S/2005/167.

<sup>388</sup> A/59/710.

<sup>389</sup> G A resolution 59/300, para. 1.

<sup>390</sup> A/59/710.

<sup>391</sup> S/60/877, para. 10.

<sup>392</sup> A/59/19/Add.1, paras. 34 – 35.

<sup>393</sup> G A resolution 60/1, para. 175.

130. Subsequent to these requests, in a letter dated 25 May 2006 from the Secretary-General to the President of the General Assembly, the Secretary-General outlined a draft United Nations policy statement and a draft United Nations comprehensive strategy on assistance and support to victims of sexual exploitation and abuse by United Nations staff and related personnel.<sup>394</sup> This strategy was subsequently adopted by the General Assembly pursuant to its resolution 62/214 of 21 December 2007.<sup>395</sup> By this resolution, the General Assembly further requested the Secretary-General to submit a follow-up report with regard to lessons learned, best practices and recommendations in the implementation of the strategy.<sup>396</sup> During the period under review, the Secretary-General had not yet presented any such report to the General Assembly.

#### 10. FUNCTIONS PERFORMED IN CONNECTION WITH COMBATING INTERNATIONAL TERRORISM

131. Pursuant to the request of the General Assembly in resolution 50/53 entitled “Measures to eliminate international terrorism”,<sup>397</sup> during the period under review, the Secretary-General continued to issue annual reports regarding national measures taken by Member States with regard to the implementation of the Declaration on Measures to Eliminate International Terrorism.<sup>398</sup> The Secretary-General also continued to render substantive secretariat support to the Ad Hoc Committee established pursuant to General Assembly resolution 51/210, which during the period under review, adopted the International Convention for the Suppression of Acts of Nuclear Terrorism<sup>399</sup> and was engaged in the elaboration of a draft comprehensive convention on terrorism.<sup>400</sup>

132. Subsequent to the terrorist attacks of 11 September 2001 on the United States of America, combating terrorism continued to occupy a central place on the agenda of United Nations organs, including the Secretariat, in seeking to achieve global peace and security.<sup>401</sup>

133. In direct response to the terrorist attacks of 11 September 2001, the Secretary-General established, in October 2001, a Policy Working Group on the United Nations and Terrorism to prioritize the Organization’s activities regarding terrorism and make specific recommendations regarding how the United Nations system could function coherently and effectively in this field.<sup>402</sup> The Secretary-General submitted the report of the

<sup>394</sup> A/60/877.

<sup>395</sup> G A resolution 62/214, para. 1.

<sup>396</sup> G A resolution 62/214, para. 4.

<sup>397</sup> G A resolution 50/53, para. 8.

<sup>398</sup> A/55/179 and Add. 1, A/56/160 and Corr.1 and Add.1, A/57/183 and Corr.1 and Add.1, A/58/116 and Add.1, A/59/210 and Corr.1, A/60/228 and Add.1 (see also A/60/164), A/61/210 and Add.1 and 2 (see also A/61/178), A/62/160, A/63/173 and Add.1, A/64/161 and Add.1.

<sup>399</sup> A/Res/59/290, Annex.

<sup>400</sup> A/57/37, A/59/894, A/C.6/60/L.6, A/61/37, A/C.6/61/SR.21, A/62/37, A/C.6/62/SR.16, A/63/37, A/C.6/63/SR.14, A/64/37, A/C.6/64/SR.14.

<sup>401</sup> A/57/1, para. 62, A/58/1, para. 61 – 63, A/59/1, paras. 75 – 77, A/60/1, paras. 66 – 69, A/61/1, paras. 84 – 92, A/62/1, paras. 68 – 73, A/63/1, paras. 98 – 103, A/64/1, paras. 108 – 112.

<sup>402</sup> S/2002/875 – A/57/273.

Working Group to the Security Council and the General Assembly for consideration on 6 August 2002.<sup>403</sup>

134. In November 2003, drawing attention to the deep divisions among the Member States on the nature of the security threats that States faced and the appropriateness of the use of force to address those threats, the Secretary-General, with a view to strengthening the United Nations so that it can provide collective security for all in the twenty-first century, established a High-level Panel on Threats, Challenges and Change.<sup>404</sup> In the report released by the Panel on 2 December 2004, whose core arguments were endorsed by the Secretary-General, terrorism was one of the subjects that occupied a central place in the Panel's review and several recommendations were made regarding how States should combat terrorism.<sup>405</sup> The report stated: "terrorism attacks the values that lie at the heart of the Charter of the United Nations: respect for human rights; the rule of law; rules of war that protect civilians; tolerance among peoples and nations; and the peaceful resolution of conflict."<sup>406</sup>

135. In March 2005, addressing participants of the International Summit on Democracy, Terrorism and Security, held in Madrid, the Secretary-General outlined a five-part strategy to combat terrorism. In his address, the Secretary-General emphasized that the fight against terrorism must not infringe on human rights and fundamental freedoms.<sup>407</sup> The contents of the Secretary-General's address were laid out in the Secretary-General's report entitled "In larger freedom: towards development, security, and human rights for all."<sup>408</sup>

136. In this report "In larger freedom," the Secretary-General recommended that the international strategy against terrorism must be comprehensive and should be based on five pillars: it must aim at dissuading people from resorting to terrorism or supporting it; it must deny terrorists access to funds and materials; it must deter States from sponsoring terrorism; it must develop State capacity to defeat terrorism; and it must defend human rights. The Secretary-General urged Member States and civil society organizations to join together in this strategy.<sup>409</sup> In the World Summit Outcome, the General Assembly accepted the recommendations of the Secretary-General.<sup>410</sup>

137. In July 2005, the Secretary-General established the Counter-Terrorism Implementation Task Force (CTITF) to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system. On 27 April 2006, the Secretary-General commissioned his report "Uniting against terrorism: recommendations for a global counter-terrorism strategy."<sup>411</sup> The report reiterated the five pillars outlined in the

<sup>403</sup> S/2002/875 – A/57/273, para. 2.

<sup>404</sup> A/59/565, para. 2.

<sup>405</sup> A/59/565, para. 145.

<sup>406</sup> A/59/565, para 145.

<sup>407</sup> A/60/1, para. 67.

<sup>408</sup> A/59/2005.

<sup>409</sup> A/59/2005, para. 88.

<sup>410</sup> G A resolution 60/1, para. 82.

<sup>411</sup> A/60/825.

report “In larger freedom”. Referring to the attacks of United Nations offices in Baghdad on 19 August 2003, the report highlighted that “one of the most powerful ways in which we can make clear that terrorism is unacceptable is to focus our attention on its victims, and ensure that their voices are heard.”<sup>412</sup> Also, the Secretary-General stressed in the report that “inherent to the rule of law is the defence of human rights—a core value of the United Nations and a fundamental pillar of our work. Effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing ones. Accordingly, the defence of human rights is essential to the fulfillment of all aspects of a counter-terrorism strategy.”<sup>413</sup>

138. Pursuant to its resolution 60/288 of 8 September 2006, the General Assembly adopted the United Nations Global Counter-Terrorism Strategy and endorsed the CTITF.<sup>414</sup> The CTITF was requested to “ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system,”<sup>415</sup>. In February 2007, the Task Force published a Counter-Terrorism Online Handbook<sup>416</sup>. Invitations were made by the General Assembly in its resolutions 60/288 and 62/71 to the Secretary-General to “contribute to the future deliberations of the General Assembly on the review of the implementation and updating of the Strategy.”<sup>417</sup> On 7 July 2008, the Secretary-General submitted his report entitled “United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy” to the General Assembly.<sup>418</sup>

139. On 9 September 2008, the Secretary-General convened a global symposium for supporting victims of terrorism to give victims a face and a voice and provided a forum for sharing best practices and discussing concrete steps to assisting victims.<sup>419</sup>

140. Pursuant to the request of the General Assembly in its resolution 62/159 entitled “Protection of human rights and fundamental freedoms while countering terrorism,”<sup>420</sup> the Secretary-General submitted a report to the General Assembly on 28 August 2008.<sup>421</sup> The report aimed at providing information to Member States on their obligations under international human rights law when implementing counter-terrorism measures under Security Council resolutions 1373 (2001) and 1624 (2005).<sup>422</sup>

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<sup>412</sup> A/60/825, paras. 13 – 14.

<sup>413</sup> A/60/825, para. 5.

<sup>414</sup> G A resolution 60/288.

<sup>415</sup> *Ibid.* para. 5.

<sup>416</sup> See <http://www.un.org/en/terrorism/cthandbook>.

<sup>417</sup> *Ibid.* para. 3, A/RES/62/71, para. 3.

<sup>418</sup> A/62/898.

<sup>419</sup> A/64/1, para. 111.

<sup>420</sup> G A resolution 62/159, para. 21. In a subsequent resolution, the General Assembly once again requested the Secretary-General to issue a report regarding the protection of human rights and fundamental freedoms while countering terrorism. See G A resolution 63/185. The Secretary-General presented his report on this matter on 29 July 2009 (A/64/186) noting recent developments in the field.

<sup>421</sup> A/63/337.

<sup>422</sup> A/63/337, para. 8.

141. The report highlighted that, while some international human rights recognized in the International Covenant on Civil and Political rights may be temporarily derogated from in times of emergency and extreme circumstances, in the fight against terrorism there remain some rights which are non-derogable and which States must always respect and protect. In the context of anti-terrorism, the report identifies these non-derogable rights to include: the right to life and the prohibition of torture and of cruel, inhumane or degrading treatment or punishment.<sup>423</sup> In this regard, the Secretary-General recommended that “Member States should reaffirm their commitment to the total prohibition of torture by prohibiting torture and cruel, inhuman or degrading treatment in national law; prosecuting those responsible for torture and ill-treatment; and prohibiting the use of statements extracted under torture, whether the interrogation has taken place at home or abroad. Measures should be taken to ensure the access of monitoring bodies to all prisoners in all places of detention, and to abolish places of secret detention. Further, Member States should abide by the principle of non-refoulement and refrain from returning persons to countries where they may face torture.”<sup>424</sup>

#### **E. Functions of the Secretary-General relating to the establishment of internationalized criminal tribunals**

142. During the period under review, the Secretary-General was tasked with negotiating and taking the steps necessary for the establishment of the Special Court for Sierra Leone (“SCSL”), the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) and the Special Tribunal for Lebanon (“STL”). These “mixed” or “hybrid” tribunals provide for participation by judges and other senior officials of the affected States and rely in varying degrees on voluntary contributions for their financing.

143. The SCSL had its origin in a request by the Government of Sierra Leone in 2000 for the assistance of the Security Council to establish a “strong and credible court that will meet the objectives of bringing justice and ensuring lasting peace...” in Sierra Leone.<sup>425</sup> In its resolution 1315 (2000) of 14 August 2000,<sup>426</sup> the Security Council mandated the Secretary-General to negotiate an agreement with the Government of Sierra Leone “...to create an independent special court”. Following negotiations conducted on behalf of the Secretary-General by the UN Legal Counsel, the SCSL was established by an Agreement between the United Nations and the Government of Sierra Leone signed on 16 January 2002 (“the SCSL Agreement”),<sup>427</sup> which annexed the Statute of the SCSL (“the SCSL Statute”). The SCSL was mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. The SCSL Agreement provided for participation both by international judges appointed by the Secretary-General, and by judges appointed by the Government of Sierra Leone.<sup>428</sup>

<sup>423</sup> *Ibid.* para. 29 – 48.

<sup>424</sup> *Ibid.* para. 77.

<sup>425</sup> Letter dated 12 June 2000 from the President of Sierra Leone to the Secretary-General, S/2000/786.

<sup>426</sup> S/RES/2000/1315.

<sup>427</sup> Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, signed on 16 January 2002, UN Doc. S/2002/246, appendix II.

<sup>428</sup> Article 2 of the SCSL Agreement.

144. No provision for the oversight or financing of the SCSL had been stipulated by the Security Council in resolution 1315 (2000). The Council did, however, subsequently recognise the need to support the Secretary-General by suggesting the establishment of a management or oversight committee to assist in raising adequate funds, and to provide advice on the administration of the Special Court and other non-judicial matters.<sup>429</sup> The SCSL Management Committee consisted of key donor and other most interested States, the Government of Sierra Leone, and the Secretary-General represented by the Office of Legal Affairs.

145. The ECCC was established as a national court of Cambodia under Cambodian legislation,<sup>430</sup> with a UN component embedded within it under the terms of the Agreement between the UN and the Government of Cambodia concerning the Prosecution under Cambodian law of Crimes committed during the Period of Democratic Kampuchea signed on 6 June 2002 (“the ECCC Agreement”).<sup>431</sup> The UN component of the ECCC is known as UN Assistance to the Khmer Rouge Trials (“UNAKRT”).

146. The ECCC had its origin in a June 1997 request by the co-Prime Ministers of Cambodia, H.E. Hun Sen and Prince Norodom Ranariddh, who wrote to the Secretary-General<sup>432</sup> to request assistance in establishing a tribunal to prosecute those most responsible for the atrocities committed during the period of the Khmer Rouge regime. The General Assembly asked the Secretary-General to examine the Cambodian request, and if necessary, to appoint a group of experts to evaluate the evidence and to propose further measures to bring about national reconciliation and address the question of individual accountability.<sup>433</sup> The appointed group of experts visited Cambodia in November 1998, and proposed a UN-based international tribunal, established either by agreement with the Government, or under Chapter VII of the UN Charter.<sup>434</sup> Neither the General Assembly nor the Security Council reacted to this recommendation, and the Secretary-General took the initiative under his general authority to offer good offices to discuss with the Government of Cambodia the possible establishment of a tribunal.<sup>435</sup> Negotiations with the Government began in July 1999 and lasted until February 2002, at

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<sup>429</sup> Letter from the President of the Security Council to the Secretary-General dated 22 December 2000, S/2000/1234.

<sup>430</sup> Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea, originally promulgated on 10 August 2001 and amended on 27 October 2004, [www.eccc.gov.kh/en/documents/legal/law-amend-2001-law-establishment-extraordinary-chambers](http://www.eccc.gov.kh/en/documents/legal/law-amend-2001-law-establishment-extraordinary-chambers).

<sup>431</sup> As approved by the General Assembly in its resolution A/RES/57/228B of 13 May 2003.

<sup>432</sup> Letter dated 21 June 1997 from the First and Second Prime Ministers of Cambodia to the Secretary-General, A/51/930 and S/1997/488.

<sup>433</sup> General Assembly resolution 52/135 of 27 February 1998, A/RES/52/135.

<sup>434</sup> Report of the Group of Experts for Cambodia established pursuant to General Assembly resolution 52/135, of 18 February 1999, annexed to identical letters dated 15 March 1999 from the Secretary-General to the President of the General Assembly and the President of the Security Council, A/53/850 and S/1999/231.

<sup>435</sup> In accordance with the Report of the Group of Experts.

which point the Secretary-General decided that the UN should withdraw as a result of a number of contentious legal and institutional issues that had arisen.<sup>436</sup>

146. In response to the Secretary-General's withdrawal, the General Assembly adopted resolution 57/228 of 18 December 2002,<sup>437</sup> which mandated the Secretary-General to resume negotiations and to conclude an agreement with the Government. The resulting ECCC Agreement was approved by the General Assembly in its resolution 57/228B of 13 May 2003<sup>438</sup> and the ECCC Agreement was signed on 6 June 2002. The ECCC Agreement did not establish the ECCC, which had already been established under Cambodian legislation in 2001, and was amended on 27 October 2004 in the light of the negotiations between the Secretary-General and the Government.<sup>439</sup> The ECCC Agreement "...provides, inter alia, the legal basis and the principles and modalities ..." for the cooperation between the UN and the Government of Cambodia.<sup>440</sup> Its mandate is to bring to trial "...senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognised by Cambodia that were committed during the period from 17 April 1975 to 6 January 1979."<sup>441</sup>

147. UNAKRT consists of international judges, an international Co-Prosecutor, and UN administrative and support staff. The international judges, although selected and nominated by the Secretary-General, are appointed by the Cambodian Supreme Council of the Magistracy from a list of nominees provided by the Secretary-General.<sup>442</sup> The Secretary-General is responsible for meeting, from voluntary contributions, the salaries and other costs associated with the international judges and staff, the cost of defence counsel under the ECCC legal aid scheme, safety and security, travel and other costs for witnesses, and the cost of utilities and services.<sup>443</sup>

148. The STL was established on 10 June 2007 when the Security Council, in resolution 1757 (2007) of 30 May 2007,<sup>444</sup> acted under Chapter VII of the UN Charter to bring the provisions of a draft Agreement with the Government of Lebanon and draft Statute of the STL, annexed to the resolution, into effect. A UN fact-finding mission to Beirut in March 2005 had reported that, after years of civil war, the Lebanese investigative, security and judicial institutions would be unable to investigate and try the case concerning the assassination of former Prime Minister Rafiq Hariri on 14 February 2005 and other connected cases independently and impartially.<sup>445</sup> The mission recommended the establishment of an independent international

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<sup>436</sup> Report of the Secretary-General of 31 March 2003, A/57/69.

<sup>437</sup> A/RES/57/228A.

<sup>438</sup> A/RES/57/228B.

<sup>439</sup> *Supra* footnote 430.

<sup>440</sup> Article 1 of the ECCC Agreement.

<sup>441</sup> *Ibid.*

<sup>442</sup> Article 3 *Ibid.*

<sup>443</sup> Articles 16 and 17, *Ibid.*

<sup>444</sup> S/RES/1757/2007 of 30 May 2007.

<sup>445</sup> S/2005/203 of 24 March 2005.

investigation into the attack.<sup>446</sup> On this basis, the Security Council acted under Chapter VII of the UN Charter in its resolution 1595 (2005) of 7 April 2005 to establish the UN Independent International Investigation Commission (“UNIIC”), based in Lebanon. UNIIC’s mandate was to assist the Lebanese authorities in their investigation of all aspects of the 14 February attack, including helping to identify its perpetrators, sponsors, organisers and accomplices.

149. On 13 December 2005, following a series of other killings and bombings in Lebanon, the Prime Minister of Lebanon wrote to the Secretary-General to request the UN to establish “...a tribunal of international character” to try all those found responsible for the attack of 14 February 2005 and other attacks.<sup>447</sup> In response, the Security Council requested a report from the Secretary-General who, following a visit to Beirut by the UN Legal Counsel, issued a report in March 2006 setting out the scope and nature of a possible tribunal,<sup>448</sup> on which basis, the Council decided to request the Secretary-General to negotiate an agreement with the Government of Lebanon.<sup>449</sup> The negotiations conducted by the UN Legal Counsel resulted in a draft Agreement between the UN and the Lebanese Republic on the Establishment of a Special Tribunal for Lebanon, and a draft Statute for the STL (“the draft STL Agreement and Statute”).<sup>450</sup> The Security Council declared itself satisfied with the drafts and asked the Secretary-General to finalise the Agreement with the Government of Lebanon.<sup>451</sup> The Prime Minister of Lebanon signed the Agreement on 23 January 2007 and the Secretary-General did so on 6 February 2007. However, a constitutional crisis facing the Government prevented the ratification of the Agreement, which could not therefore enter into force in accordance with its terms. In response to a request from the Prime Minister of Lebanon that the STL be put into effect as a matter of urgency,<sup>452</sup> the Security Council adopted resolution 1757 (2007) as set out above.

150. The STL’s primary mandate is to prosecute those responsible for carrying out the attack of 14 February 2005 in Beirut which killed 22 people, including the former Lebanese Prime Minister, Rafiq Hariri, and injured many others.<sup>453</sup> The STL also has jurisdiction over attacks carried out in Lebanon between 1 October 2004 and 12 December 2005 if they are connected with the attack of 14 February 2005 and are of a similar nature and gravity.<sup>454</sup> The jurisdiction can extend to crimes carried out on any later date if they are connected to the 14 February 2005 attack, if so decided by the Secretary-General and the Government of Lebanon, with the consent of the Security

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<sup>446</sup> *Ibid.*

<sup>447</sup> S/2005/783

<sup>448</sup> S/2006/176 of 21 March 2006.

<sup>449</sup> Resolution 1664 (2006) of 29 March 2006.

<sup>450</sup> Set out in the Report of the Secretary-General on the Establishment of a Special Tribunal for Lebanon of 15 November 2006, S/2006/893.

<sup>451</sup> Letter of 21 November 2006 from the President of the Security Council to the Secretary-General, S/2006/911.

<sup>452</sup> Letter from the Prime Minister of Lebanon to the Secretary-General dated 14 May 2007, attached to a letter from the Secretary-General to the President of the Security Council dated 16 May 2007, S/2007/281.

<sup>453</sup> Article 1 of the draft Statute attached to resolution 1757 (2007).

<sup>454</sup> *Ibid.*

Council. The STL is the only UN criminal tribunal to focus on the crime of terrorism. It applies the provisions of the Lebanese Criminal Code relating to acts of terrorism, and its Rules of Procedure and Evidence are guided by the Lebanese Code of Criminal Procedure.<sup>455</sup>

151. The STL is an international court with participation by Lebanese judges and a Lebanese Deputy Prosecutor. The international judges are selected and appointed by the Secretary-General. The Prosecutor is appointed by the Secretary-General following consultation with the Government of Lebanon. The Lebanese judges are selected and appointed by the Secretary-General from a list provided by the Government of Lebanon upon the proposal of the Lebanese Supreme Council of the Judiciary.<sup>456</sup> The Deputy Prosecutor is appointed by the Government of Lebanon, in consultation with the Secretary-General and the Prosecutor. The STL is unique among the UN criminal tribunals in having a Defence Office as an organ of the tribunal.<sup>457</sup> The Head of the Defence Office is appointed by the Secretary-General in consultation with the President of the STL.

152. Administrative and budgetary oversight of the STL is dealt with by a Management Committee consisting of key donor States, the Government of Lebanon and the Secretary-General, represented by the Office of Legal Affairs.<sup>458</sup> The STL has an express duration of three years from its commencement.<sup>459</sup> It is for the Secretary-General, in consultation with the Government of Lebanon and the Security Council, to determine periods of extension of the STL's mandate "...if.....the activities of the Tribunal have not been completed".<sup>460</sup>

## **F. Representational functions of the Secretary-General**

### **1. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO THE NEGOTIATION AND CONCLUSION OF AGREEMENTS**

153. During the period under review, the Secretary-General continued to receive requests to exercise functions with regard to negotiation and conclusion of agreements concluded by the United Nations or its organs. For example, the General Assembly, in its resolution 58/79 of 9 December 2003, invited the Secretary-General to take steps to conclude a relationship agreement between the United Nations and the International Criminal Court and to submit the negotiated draft agreement to the General Assembly for approval.<sup>461</sup> In addition, in its resolution 60/153 of 16 December 2005, the General Assembly requested the Secretary-General and the Office of the High Commissioner to

<sup>455</sup> Article 28.2 of the draft Agreement attached to resolution 1757 (2007).

<sup>456</sup> Article 2 of the draft Agreement attached to resolution 1757 (2007).

<sup>457</sup> Article 2 of the draft Agreement attached to resolution 1757 (2007).

<sup>458</sup> Article 6 of the draft Agreement attached to resolution 1757 (2007).

<sup>459</sup> Article 21.1 of the draft Agreement attached to resolution 1757 (2007).

<sup>460</sup> Article 21.2 of the draft Agreement attached to resolution 1757 (2007).

<sup>461</sup> See G A resolution 58/79, para. 8. See also Part II. D. 7 above.

give their support to the establishment of a United Nations human rights training and documentation centre for South-West Asia and the Arab region and to conclude an agreement with the host country regarding its establishment.<sup>462</sup> In its resolution 1664 of 29 March 2006, the Security Council requested the Secretary-General to negotiate an agreement with the Government of Lebanon aimed at establishing a tribunal of an international character based on the highest international standards of criminal justice to bring to justice those responsible for the terrorist bombing that killed former Lebanese Prime Minister Rafiq Hariri and others.<sup>463</sup> Furthermore, in resolution 1778 of 25 September 2007, the Security Council requested the Secretary-General and the Governments of Chad and the Central African Republic to conclude status-of-forces agreements for the United Nations Mission in the Central African Republic and Chad (MINURCAT) taking into account General Assembly resolution 59/47 on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, General Assembly resolution 60/42 on the Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel and General Assembly resolution 61/133 on the Safety and Security of Humanitarian Personnel and the Protection of United Nations Personnel.<sup>464</sup>

## 2. REPRESENTATIONAL FUNCTIONS OF THE SECRETARY-GENERAL IN LEGAL PROCEEDINGS\*\*\*

### 3. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO THE UNITED NATIONS HEADQUARTERS

154. In the period under review, the General Assembly continued to request the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country.<sup>465</sup>

## 4. OTHER REPRESENTATIONAL FUNCTIONS OF THE SECRETARY-GENERAL

### *(a) Functions of the Secretary-General with regard to privileges and immunities*

155. During the period under review, the General Assembly adopted annual resolutions by which it requested the Secretary-General to take necessary measures to ensure full respect for the human rights, privileges and immunities of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation.<sup>466</sup> The Secretary-General continued to monitor and promote the observance of the privileges and immunities of United Nations officials, and drew attention to threats to

<sup>462</sup> See G A resolution 60/153, para. 3.

<sup>463</sup> S C resolution 1664 (2006), para. 1.

<sup>464</sup> See S C resolution 1778 (2007), para. 4.

<sup>465</sup> See, for example, G A resolutions 55/154, para. 8; 60/24, para. 8; 62/72, para. 11; and 63/130, para. 9.

<sup>466</sup> See, for example, G A resolutions 54/192, para. 5; 55/175, para. 7; 56/217, para. 7; 57/155, para. 9; 58/122, para. 14; 59/211, para. 14; 60/123, para. 14; 61/133, para. 12; 63/138, para. 14; 64/77, para. 14.

the security of the United Nations staff. The Secretary-General submitted reports each year on the protection of United Nations personnel and measures taken or to be taken to improve the security of staff,<sup>467</sup> including a section, beginning in 2005, addressing respect for the human rights as well as privileges and immunities of United Nations and other personnel.<sup>468</sup> Some of these reports further contained annexes listing, *inter alia*, civilian staff members under arrest, detained or missing with respect to whom the United Nations, the specialized agencies and related organizations had been unable to exercise fully their right to protection during the reporting period,<sup>469</sup> United Nations staff members who had been involved in security incidents,<sup>470</sup> or civilian personnel who had lost their lives as a result of violence or malicious acts during the reporting period.<sup>471</sup>

*(b) Representation by the Secretary-General at conferences and meetings of other agencies*

156. During the period under review, the Secretary-General continued to represent the United Nations at international conferences and meetings, either directly or through delegation of authority. For example, at the invitation of the Emir of the State of Qatar, the Secretary-General participated in the ninth session of the Islamic Summit Conference of the States members of the Organization of the Islamic Conference, which took place from 12 and 13 November 2000.<sup>472</sup> On 27 and 28 March 2001, the Secretary-General attended the Summit Meeting of the League of Arab States held in Amman and delivered a statement.<sup>473</sup> In addition, the Representative of the Secretary-General attended the eighth ministerial session of the Organization of African Unity Central Organ of the Mechanism for Conflict Prevention, Management and Resolution which was held in Tripoli in January 2002 to consider the situation in the Central African Republic.<sup>474</sup> Furthermore, on 29 January 2007, the Secretary-General addressed the African Union Summit in Addis Ababa, Ethiopia<sup>475</sup> and on 13 March 2008, the Secretary-General addressed the eleventh Summit of the Organization of the Islamic Conference, which took place in Dakar.<sup>476</sup>

*(c) Authorization by the Secretary-General to use the United Nations emblem, flag and insignia*

157. During the period under review, the Secretary-General continued to receive requests to use the United Nations emblem, flag and insignia for a variety of purposes. In

<sup>467</sup> See, for example, A/58/344; A/60/223; and A/64/336.

<sup>468</sup> See, for example, A/60/223, section IV; and A/64/336, section III.

<sup>469</sup> See, for example, A/57/300, annex II; A/59/332, annex II; A/61/463, annex II; A/62/324, annex II, A/63/305, annex II.

<sup>470</sup> See, for example, A/62/324, annex III; A/63/305, annex III.

<sup>471</sup> See, for example, A/56/384, annex; A/57/300, annex I; A/59/332, annex I; A/61/463, annex I; A/63/305, annex I; A/64/336, annex.

<sup>472</sup> A/56/398, para. 2.

<sup>473</sup> A/56/474, para. 3.

<sup>474</sup> A/57/351, para. 7.

<sup>475</sup> [http://www.un.org/apps/news/infocus/sgspeeches/search\\_full.asp?statID=64](http://www.un.org/apps/news/infocus/sgspeeches/search_full.asp?statID=64).

<sup>476</sup> [http://www.un.org/apps/news/infocus/sgspeeches/statments\\_full.asp?statID=200](http://www.un.org/apps/news/infocus/sgspeeches/statments_full.asp?statID=200)

January 2008, the Secretariat amended the administrative instruction regarding the use of the United Nations emblem on documents and publications.<sup>477</sup>

#### 5. FUNCTIONS OF THE SECRETARY-GENERAL IN THE FIELD OF PUBLIC INFORMATION

158. During the period under review, the Secretary-General continued to receive requests from the General Assembly regarding information activities. For example, the Secretary-General was requested to ensure that information presented to the media is made available to delegations fully and in a timely fashion;<sup>478</sup> to continue towards completion of the task of uploading all important older United Nations documents on the United Nations website in all six official languages on a priority basis, so that these archives are also available to Member States through that medium;<sup>479</sup> to pay full attention to the parity of the six official languages in expanding the international radio broadcasting capacity;<sup>480</sup> and to continue to exert all efforts to ensure that publications and other information services of the Secretariat, including the United Nations website and the United Nations News Service, contain comprehensive, objective and equitable information about the issues before the Organization and that they maintain editorial independence, impartiality, accuracy and full consistency with resolutions and decisions of the General Assembly.<sup>481</sup>

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<sup>477</sup> ST/AI/189/Add.21/Amend.1

<sup>478</sup> G A resolution 55/136 B, para. 23.

<sup>479</sup> G A resolution 62/111 A – B, B, part II, para. 26.

<sup>480</sup> G A resolution 58/101 A – B, B, part V, para. 57.

<sup>481</sup> G A resolution 60/109 A – B, B, part II, para. 16.