



## Viet Nam-New Zealand Track 1.5 Bilateral Dialogue

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### Session IV: United Nations Reform and the role of the UN Security Council

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#### Context

Globalisation resurrects, in a fresh context, all the basic questions of international relations – who rules, in whose interests, according to which ethical principles, and by what means?<sup>1</sup> But the connexions between trade, economics, between stability and well being, between justice and freedom in our globalising world, are inextricable. The idea that risks and threats can each be effectively compartmentalised and addressed in isolation, even by the most powerful nations alone, is being overtaken by the connexions of globalisation. For example, issues of energy security and, by extension, climate change, of glaring injustice and of rampant regional instability are all profoundly interconnected now in the cruel turmoil of the Middle East. The global economy needs moreover, a global political framework not in order to control it, but in order to preserve it – from conflict and disorder.

Notwithstanding its manifold shortcomings, the UN system is the closest thing we possess to a comprehensive global framework with its multiple agency structure. Because of its universal membership and of its motivational Charter, UN admission lends moreover, a badge of legitimacy to involvement by all countries in international affairs. To imagine we can invent a replacement for the UN is delusional. However failure to improve (or reform) that system of rules based international order, and to coordinate more effectively the UN's multiple responsibilities, subverts global well being – even in an era where free market philosophy rules. From the perspective of a small country like New Zealand, modern security is, in an overall sense, comprehensive. There are as well, profound shifts in the tectonic plates beneath international relations. It is surely in New Zealand interests that influential transitional countries, especially those in East Asia should be fully involved in the reform and management of a revitalised multilateral

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<sup>1</sup> Held D & Mcgrew A.; Globalization & Anti-Globalization; Polity; 2007 pp1-10

system, and that space must therefore be created for that involvement, by those important UN founding countries, which have traditionally monopolised conduct throughout much of the system. This will inevitably involve greater financial support for the UN from countries in transition.

## **Background**

Calls for reform of the UN system are as old as the existence of the system itself. So therefore are its imperfections. The focus of current reform efforts emanates from a 2005 initiative of the UNSG who asserted that the UN had reached “a fork in the road” confronting a deep paradox where declining confidence in the organisation was matched by growing belief in the importance of effective multilateralism, and a desire for a new consensus upon which to base collective action. An ambitious menu for reform was placed before UN governments – over 100 recommendations. These were the subject of examination by UN Heads of Government (HOG) in 2005 and their decisions define the parameters of the current reform debate in two basic respects.

First, there are proposals for strengthening the actual performance of the UN system – in the Secretariat, in the principal institutions and agencies, in the business of mandate setting, of proper coordination, management and accountability. These are the nuts and bolts for any organisation in a continuous search for improvement, and depend in the case of the UN, vitally upon leadership from the UNSG, and upon (financial and other) support from UN member states in particular to fortify the UNSG's central role. In the past such commitment from both sides has not necessarily been in evidence. Powerful member states have at times, withheld financial support unless UN management improvements were made; various Secretaries General have deplored this practice which, in their opinion, obstructs meaningful reform - especially in circumstances where UN member countries continue nonetheless to heap additional responsibilities upon the UN, but without additional funding. For many reform minded UN members especially powerful members and some of their friends, the aim here is precisely to get better value for money – not to increase the money, let alone invest the UN or its Secretary General with more authority.

Second, there are the resolutely more ambitious proposals which call for strengthened cooperation by UN members in collective security and sustained economic and social development, as well as greater collective commitment to the rule of law and human rights. Such reforms are obviously inter-related. The aim of reform minded UN members here is to refashion a UN system which is relevant to, and reflects the realities of, the new century. Some reformers want to re-write the UN Charter, but any serious revision

is a remote possibility. This contribution concentrates on this second dimension of the reform agenda – in five areas: security, arms control, human rights, rule of law and development.

## **Security**

There are several dimensions to UN reform in the domain of security. Over the years since the Cold War ended (1989-1990) and the subsequent eruption in many areas of internal conflict – driven by ethnic extremism, separatism, religion etc. – the critical issue becomes one of who or what is the source of legitimacy for a response by the international community, collectively or individually? Legitimacy is, after all, as much a source of power as military force itself. Indeed force without legitimacy amounts to tyranny<sup>2</sup>. The UN Charter provisions governing peaceful settlement of threats against security, which include respect for national sovereignty, still however command majority support and in 2005, member states reaffirmed this, and the vital place of the UNSC, as the most powerful source of legitimacy in international security affairs.

In the wake of the 2003 Iraq war where military action without UN approval, and on grounds that were dubious, had shaken the foundations for international order, that reaffirmation by UN members is vital in order to fortify the reform agenda. It was a testament too at a time when the use of unilateral force, of pre-emptive strike, and of preventive war were all brandished as options available to the most powerful. At the same time the nature of much of the post Cold War turmoil did demonstrate (in for example, the Balkans) that the UN itself is not well endowed for war fighting. Nonetheless powerful member states and others resist stoutly reform ideas to equip the UN with a greater ready reaction capability against emerging threats. Some governments moreover remain adamant about the need to retain sovereign control of their own forces at all times, and are reluctant to consign them to a blue helmet command. These are real limits to the extent of potential reform of UN international peace support.

The result has been an expedient division of labour in international security policy under which the UN contracts peace enforcement operations authorised by the UNSC, out to regional or other coalitions of willing nations. But such expediency is producing, in its turn, a less than ideal solution for prevailing needs. For, while the UN is not suited, or not equipped by its member states, to perform war fighting, it is structurally and more temperamentally prepared than are military alliances or coalitions of the willing, for the

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<sup>2</sup> Cooper R.; *The Breaking of Nations*; Atlantic Books; 2003 p.167

immensely challenging longer term tasks of post-conflict rehabilitation. The line between conflict and rehabilitation is, of course, always blurred – where does one end, and the other begin? Present experiences in Iraq, Kosovo, Afghanistan demonstrate how ill-equipped coalition combat forces can be for the lengthy complex task of rebuilding war-torn societies. In places this has led to the insertion of a UN post-conflict presence alongside coalition combat forces, but there is here a secondary problem of divided authority between the UN and the combat command (Afghanistan is a current example), and a danger for the UN of becoming just another unit of the combat operation, acting on directives from the military commanders.

A decision was taken in 2005 as part of current UN reform, to establish a UN Peace Commission with the aim of developing integrated post conflict strategies with effective coordination of all elements involved. This is a big task. But improvements inside the UN Secretariat have been made and more are to come. There is, however, a lopsided structural pattern whereby peacekeeping under the UN blue helmet now relies extensively upon military forces of countries in transition (India, Pakistan, Bangladesh, Nepal, Nigeria etc. are major contributors) while traditional contributors prefer to direct their contingents to include operations by coalitions/alliances which while they may have been authorised by the UNSC, fall outside the full UN ambit. Traditional peacekeeping contributors are moreover avoiding significant support of warlike peace operations in Darfur or the Congo (and rely upon countries in transition to carry the burden), while concentrating their support on commitments that are linked to the so-called global war on terror (GWOT); although international terrorism is not in fact the number one security preoccupation for the majority of UN members. The UN Secretariat has been careful in its own assessments, through the UNSG, not to privilege terrorism as the transcending global security challenge; other political/economic are also identified including the sheer imbalance of power in today's world, as factors of global instability<sup>3</sup>.

### **UN Security Council Reform**

The touchstone for UN reform overall remains nonetheless re-modelling the composition and powers of the UN Security Council (UNSC) which still reflect the world of 1945 and the foundation period of the UN system. The task remains infinitely complex. The permanent Five UNSC members are not about to surrender their positions or prerogatives and the debating, negotiating, and selecting which additional UN members deserve a permanent seat, and of creating a more “representative” UNSC by adding more non-permanent members, is a daunting challenge. The chances of securing

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<sup>3</sup> Kofi Annan; In Larger Freedom: UN Doc. A/59/2005; 21 March 2005 p.4

agreement to major Charter amendments to make any change are virtually non-existent.

UNSC reform proposals to date have been compromises therefore, intended to create a momentum that hopefully will lead incrementally to a more relevant and substantive result. There are multiple ideas which defy easy summary, but one proposal which is representative of those that lie on the table (with variations) envisages maintaining the permanent Five seats, but increasing the number of non permanent seats (from 10 to 20) and allocating those amongst the regional electoral groupings,<sup>4</sup> with an important proviso that in future non permanent members should be able to serve consecutively more than one term (of 2 years) if their regional group is agreeable. This would require only minor Charter amendment. The purpose here is to create longer serving non-permanent members and to facilitate the potential emergence of semi-permanent members. The veto power would remain unchanged.

There is little doubt that the emergence of semi – permanent or long serving UNSC members would change the dynamics of the UNSC. The influence that regional electoral groups would assume through their right to nominate longer serving members would help “democratise” the UNSC, and hold it accountable. As things stand permanent member control over the UNSC is substantively consolidated by the fact that the non-permanents can only serve two years which (as NEW ZEALAND experience anyway suggests) is plainly too short to make a lasting impact or help materially improve the functioning of the Council itself.

Stop gap incremental solutions disappoint, however, those UN member states in transition whose weight and influence warrants permanent member status right now. But, if agreed, propositions like the one above would signal a move towards greater equity inside the system. This should be enhanced too by new working methods for the UNSC involving, for example, much closer interaction on crisis issues with the International Court of Justice (ICJ) and the International Criminal Court (ICC). The permanent UNSC members are traditionally reluctant, as things stand, to countenance sharing duties in this way because their veto does not, of course, apply in the Courts. But if present reform efforts are intended to strengthen the rule of law in international

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<sup>4</sup> Under this proposal 6 candidates from Africa, 5 from Asia, 4 from Latin America, 3 from Western Europe and Others, and 2 from East Europe, would be eligible for election to the UNSC non-permanent seats, with the right of renewal if the electoral group involved agrees. Overall this proposal would give Asia 6 UNSC seats (permanent and non-permanent) while West Europe and Others would receive 5 (permanent and non-permanent).

affairs, and that is the agreed purpose, then better links between UNSC and the Courts are axiomatic.

Other changes across the broader management of the multilateral system – in particular in IMF, IBRD and WTO – are indispensable. Reforms to the managing boards, selection procedures, distribution of entitlements and other internal machinery are needed if greater equity, relevance and transparency are to be instilled to those institutions. Some changes have been made. But a strengthened relationship to the UN system overall, and wider involvement in agenda setting and negotiation of outcomes in those institutions by both developed countries and by economies in transition, as well as others, is vital to a more effective global management of international trade and finance, and in order to reflect the political realities of the new century.<sup>5</sup> The world economy and global society is being transformed at such a pace that the traditional roles and governance structures in IMF and the World Bank are now questioned by reputable sources.<sup>6</sup> Likewise the need to strengthen the competence of bodies like the UN Environment Programme (UNEP) by establishing it as a fully fledged specialised agency<sup>7</sup>; or broadening the mandate of the International Atomic Energy Agency (IAEA) given the links between nuclear energy generation and weapons manufacture, must comprise key parts of institution-wide improvement of the UN.

### **Weapons Proliferation**

To succeed, reform of the UN system must first include, of course, change in member state attitudes. Nowhere is this more compelling than in the area of arms control and disarmament. Although the UN was invested at the outset, with grave responsibilities in the realm of peace and international security, member states, particularly powerful member states, have declined to fully utilise the institution and/or to ignore those accomplishments that it has achieved in the matter of arms control. Because of this, the nuclear test ban treaty (CTBT) lies unratified, the fissile material cut off treaty confronts a complete log jam, there is no agreement on banning weapons in space, no arms control treaty exists for missiles, and the principal achievement of the organisation, the 1970 UN Non Proliferation Treaty (NPT), is either ignored by some and/or selectively interpreted by others. That treaty represents fundamentally a bargain between those countries that do not possess nuclear weapons and undertake never to acquire them

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<sup>5</sup> Stiglitz J.: *Globalization and its Discontents*; Penguin 2002; pp 214-252

<sup>6</sup> Kennedy P.; *The Parliament of Man*; Penguin 2006; .pp 243-279.

<sup>7</sup> Elliott L.; *Environmental Foreign Policy*. In *Australian Foreign Policy Futures*. ANU Keynotes 8, April 2008

(but do receive assurances about access to nuclear energy), and those that do own nuclear weapons but undertake to dismantle and eventually eliminate their arsenals.

The Five traditional nuclear weapon owning states (NWS) consistently assert that nuclear weapons are indispensable to their own national security but deny to other countries, by coercion and threats of military action, the right to make the same claim. Perceived dangers in major capitals that terrorists might acquire nuclear weapons have added to fears about the threats to international security from proliferation, but they at the same time, distort a balanced collective approach to the overall international security agenda. The laser beam of concern is concentrated by the major nuclear weapon powers on suspected delinquent nations like Iran or DPRK, but it steadfastly ignores their own delinquency in terms of the NPT. All this illustrates starkly just how far reform of old attitudes need to progress.

Some progress in conventional arms control treaty making – notably land mines and cluster weapons – has occurred in spite of major power obstruction. Negotiations were however, pursued outside the UN framework precisely to avoid such obstruction.

## **Human Rights**

Security, development and human rights provide essential pillars for reform of the international system. At their 2005 Summit, UN HOG committed to further defining the concept of individual human security. This was an extension to their acceptance in the HOG communiqué of a new ethic for international behaviour – the Responsibility to Protect (R2P) – whereby all UN members endorse the obligation to safeguard those populations wherever they may be in the world, from genocide, ethnic cleansing, war crimes and crimes against humanity.

The new ethic envisages the use of outside military force under R2P, but only with prior endorsement of the UN Security Council, and only as a last resort after prevention has been tried and failed. Yet longstanding tensions remain beneath the surface of R2P between those who insist upon the sanctity of national sovereignty and those who support permissible outside intervention to confront serious crime against humanity. The consensus which allowed the 2005 HOG to record acceptance of the new ethic is fragile.

On the other hand there are indeed persuasive arguments in support of creating more extensive ethical foundations for our globalising world<sup>8</sup> – for example, the Responsibility

to Provide a fair and equitable trading system, the Responsibility to Preserve a sustainable ecological and environmental global system, the Responsibility to Respect cultural and other diversity – are all possibilities but their endorsement as ethical principles which bind intergovernmental commitments, would surely confront some solid opposition from one quarter or another. Even as exuberant forces of globalisation abridge national sovereignty everywhere, national sovereignty remains a corner stone of the entire international system, for the powerful and weak alike. The question whether R2P now actually signifies a readiness particularly on the part of large powerful nations, to go to war on behalf of human rights, remains conjectural – as reluctance about involvement with crisis in Darfur and the Congo suggests.

The new Human Rights Council (HRC) set up in 2005 is heralded as an important reform decision although it is early days to make a conclusive judgement about its impact. The HRC will subject all UN members to closer scrutiny on human rights performance. It is not entirely clear how it will do this in relation, say, to economic human rights that have traditionally received much less attention from established human rights advocates (and institutions like IMF) than political/civil human rights. Moreover a much wider potential for HRC attention has opened with perceived infringements of individual civil liberties created in pursuit of the global war on terror. How far this will preoccupy HRC is not clear. Countries that are leading champions of human rights do not traditionally criticise one another for infractions.

The Council replaces the discredited Human Rights Commission where membership was afforded to countries whose sole purpose was to frustrate progress and protect their own misdeeds. The reform was overdue. But there are plenty of other examples where other members have in their turn, used membership of specific multilateral institutions – in arms control, in farm trade, in environmental protection – to perform precisely the same obstructive role, but where calls to reform the institution and give it more teeth, are firmly resisted by the powerful. The principles behind reform in the area of human rights need to extend more widely throughout the UN system.

### **Rule of Law**

The creation of a rules based international order owes much to the US which after the Second World War in the 20<sup>th</sup> century laid the foundations along with others, for the new UN multilateral system. The US displayed much energy and imagination. Smaller countries like New Zealand have benefited appreciably from the opportunity that the

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<sup>8</sup> Singer P.; One World; the Ethics of Globalisation; Text Publishing 2002, is devoted entirely to the subject.

system offers to advance and protect interests. But as a new century begins the US Administration displays deep disenchantment about its own creation, which it is not now able to control in quite the same way as during the UN formative years. That is a state of affairs that is not likely to change.

Under successive presidents, the United States has absolved itself from international law, or declined to involve itself in negotiation of new international law where it considers its own interests and security are not privileged. It does not either seem to possess a coherent view about what reform of the UN should basically aim to achieve – is the UN to be a forum for international cooperation to resolve problems of global concern (which no single country, no matter how powerful, can resolve alone) **or** an organisation with a measure of independent capacity to act itself upon those problems?

While the US rightly prides itself upon the system of checks and balances surrounding the exercise of executive power fashioned within its own constitution, it sternly resists any application of global checks and balances upon its own freedom to act as it sees fit, in international relations. For the great majority of countries, an effective multilateral system is a matter of necessity, not choice. Only the US has the luxury, it seems, of endless debate about the value, utility or necessity of participation in the UN.<sup>9</sup>

For those (smaller) countries which value rules based international order, there is an obvious sense of misgiving about the implications of all this for the future. Reform of the multilateral system is indispensable. From a New Zealand perspective, the commitment by countries in transition, and particularly governments in successful East Asia, to rules based order both globally and regionally will have a decisive bearing upon the way the international system adjusts to the new opportunities and risks of the globalising world. Indeed in many respects the future for the system rests in these hands, even as the original architect itself loses faith.

## **Development**

The collective effort to reform the UN as a more effective instrument to confront the abiding problems of poverty, injustice, conflict, environmental degradation was signalled in the 2000 Millennium Declaration (UNMD). Eight major developmental goals were set which provide a checklist for progress including specific targets for poverty alleviation, basic education, health improvement and other goals. At the bottom line the UNMD goals are a compact between the developed and developing world.

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<sup>9</sup> O'Brien T.: *The US & the UN in The American Century?*, Ed. Rabel. Praeger 2002; pp123-134.

Progress has occurred in some sectors in some regions (most notably Asia) with fighting poverty and hunger, reducing infant mortality and increasing school enrolment. But elsewhere the achievements are dismal – in sub-Saharan Africa none of the goals will be met by 2015 (the target date). By then 1 billion people will still be living on less than \$US1 per day. How far this failure is attributable to the UN as such, and how far to the UN member states themselves, is a fair question. The UN has power to galvanise international attention to pressing global needs, which it did throughout the 1990s with a series of Summit conferences devoted to major economic/social issue (environment, racism, gender, urbanisation, children, etc.) which extended appreciably non-government influence on official agendas, but the capacity to act to satisfy those basic needs depends squarely upon the performance of member states.

Attention has been diverted too by competing challenges – energy security, accelerating food shortages and price escalation, crisis over bank credit, massive natural disasters as well as the sheer complexity of critical challenges such as climate change. But the absence of political will also explains the failure to stick with the UNMD goals and as far as the responsibility to ensure “an open, equitable, rules based, predictable and non-discriminatory multilateral trading and financial system...” is concerned, major economies have failed, in particular, to live up to expectations in the so-called Doha Round of further WTO trade liberalisation negotiations. The lack of progress here reflects the degraded state of multilateralism overall – for history teaches if the political/security dimension of international cooperation corrodes so does the trade/financial dimension, and vice-versa.

Likewise levels of ODA commitment by donor countries, seem very likely to fall short of the \$US50 billion extra estimated for accomplishment of the UNMD goals. Amongst many failures to date with the reform agenda, the lack of agreement about how or whether to remodel ECOSOC as the centrepiece for global economic policy coordination is palpable. The responsibility rests here on all sides of UN membership, and is the more notable given the way in which the pace and realities of transnational globalisation are diminishing the relevance of IMF/IBRD as presently constituted.

## **Conclusion**

Finally, the overall reform task for the UN system is such that it cannot be left simply to diplomats in the UN system itself – who are not temperamentally equipped (or instructed) to think outside the square, and whose exhausting methods of negotiation about language and texts are not conducive to clear blue sky thinking. It remains important that ideas are encouraged from all other quarters, even if the likelihood of

acceptance is not any greater. Three examples, by way of conclusion, may be briefly traversed. There are of course many more ideas than three.

**First**, the need to more closely associate non-governmental civil society with the UN system is acknowledged at many levels, but the way in which to do this eludes agreement. Ideas have surfaced to create **a second chamber of the UN General Assembly** encompassing representatives of non-governmental organisations, of citizens' movements, of private sector business, of science, of academics etc., to extend the body of stakeholders in the UN system, and strengthen thereby processes of consultation, transparency and accountability.<sup>10</sup> The organisation and selection of an effective workable second chamber and its links into the multilateral system would be a prodigious task. There is moreover no formal definition in the world today of what actually constitutes Civil Society, although its foundations as a non-governmental force for change are the more readily observable in mature democratic societies but less visible as yet, in several important countries in transition, and in developing countries. Authentic representativeness in the composition of any UNGA second chamber would nonetheless be vital to its ultimate acceptability.

**Second**, for those UN governments and institutions who believe that a reinvigorated UN must itself be invested with a greater measure of independent capacity, the issue of its budgetary resources is significant. The regular UN budget to which member states contribute is currently around \$4 billion per annum. This does not include peacekeeping costs. But it is by most comparisons a very modest budget for an institution that serves nearly 200 countries. More is spent annually in the US and Europe, for example, on pet food or ice cream. The New York Fire Service budget exceeds that of the UN. The administration of the state of Wyoming in the US has a larger staff than the UN worldwide. The need to augment the UN finances and in the process to extend to the institution some measure of autonomy, sustains an idea for a **small tax on all global financial transactions to be allocated to the UN budget**.

This idea originated 30 years ago as the Tobin Tax, first proposed by the American James Tobin not as a means to fund the UN as such but as a measure to dampen the damaging impacts of international currency flows. In a world of sub prime mortgages, the case for action seems more compelling. The idea that the proceeds might, however, help underpin the costs of the multilateral system grows out of the consideration (mentioned earlier) that if the global economy requires a global political framework in order to protect it from conflict and disorder, then it is reasonable that the private sector

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<sup>10</sup> Ryan S.: The UN & International Politics; St. Martins Press 2000; p.171 etc.

contribute something directly to the costs of this public good. Over 30 years larger powers have never seriously supported any notion that would enhance UN capability for independent action.

**Third**, and finally, there is a view that pursuit of UN reform is fruitless if it is attempted from the bottom up. In other words the vital first requirement is to start at the very top, and concentrate upon improving global stewardship of important nations, in particular by expanding the annual G8 summit of leading industrial nations through addition of leaders from key countries in transition and some others, into a top table global management group. The aim is creation of an **“apex mechanism for strategic guidance to the international system as a whole”**. The advocates acknowledge the G8 is no longer adequate, so its expansion to 20 members is proposed, who acting together would supply the energy, resources and resolve to complement and energise other reform efforts – like the UNMD goals. Canada originated the idea, which has been further developed at think-tank level by the Brookings Institution in Washington, which is very close to the US Democratic Party<sup>11</sup>.

There is much detail still to be worked upon in particular the legitimacy, representativeness and acceptability of G20 and how it would relate, for example to the UN Security Council, the IMF, IBRD, WTO etc. It is noteworthy that G20<sup>12</sup>, if constituted, would include Australia and five Asian countries (China, India, Indonesia, Korea and Japan). Traditionally New Zealand has been cautious about ideas for an inner directorate of principal powers to supervise all dimensions of international affairs, although New Zealand does not ignore the realities of power. But it cherishes rules based order and the opportunity for direct input as a small internationally minded country, to the rule making process and exchange of ideas to guide international cooperation - which the UN and the multilateral system, with all its many imperfections, allows.

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Views expressed in this paper are personal to the author and are not to be taken as representing the full delegation or the Asia New Zealand Foundation

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<sup>11</sup> See [www.brookings.edu/papers/2006/04/globalgovernance](http://www.brookings.edu/papers/2006/04/globalgovernance) for material on the ideas

<sup>12</sup> G20 membership would comprise the G8 members, Canada, France, Italy, Germany, Japan, Russia, UK and US plus Australia, Argentina, Brazil, China, India, Indonesia, Korea, Mexico, Saudi Arabia, South Africa and Turkey. These countries comprise 64% of world population and about 90% of global GDP.