



SECURITY COUNCIL REPORT

SPECIAL RESEARCH REPORT



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APPOINTMENT OF A NEW SECRETARY-GENERAL

The most important decision that the Security Council will take in 2006 will be the selection of the eighth Secretary-General of the United Nations.

The decision will be of major importance for the future of the United Nations, coming as it does in the midst of a protracted and increasingly rancorous debate over the reform of the sixty-year-old organisation and how to adapt it to respond better to the challenges of the twenty-first century.

As the time for the appointment decision approaches, Security Council Report will analyse and preview specific developments, Council dynamics and possible options. At this early stage, our purpose in writing this Special Research Report is to provide relevant factual background on the history, process and procedure; because it seems that Council members are beginning to discuss those issues, at least informally.

This report addresses seven questions:

- 1) Who actually decides the appointment?
- 2) What is the selection process?
- 3) How important is the veto?
- 4) Can the length of the term of office be varied?
- 5) Are there any requirements relating to the timing of the decision?
- 6) Is there a requirement for regional rotation?
- 7) What is the status of the Deputy Secretary-General position and is it linked to the Secretary-General's position?

1. Who actually decides the appointment?

The UN Charter, in article 97, says that the Secretary-General

“shall be appointed by the General Assembly.”

Appointments have traditionally been made by way of a General Assembly resolution, for example resolution 51/200 of 17 December 1996 appointing Secretary-General Kofi Annan to his first term of office.

For most of the UN's history, however, the role of the General Assembly in appointing the Secretary-General has been limited to the formal act of appointment. In practice, the Security Council has done the real decision-making. In this regard, it is important to note that article 97 specifies that the Secretary-General shall be appointed by the General Assembly

“upon the recommendation of the Security Council.”

In the early years of the United Nations, the General Assembly's role was not so limited. In 1946, at its very first session, the General Assembly took the lead in setting procedures for the appointment process. In resolution 11 (I) (A/RES/1/11 in current numbering), it established ground rules for the appointment process, including:

- Terms of appointment
- Conditions, including restraint as to future employment
- Length of term of office and possibility of reappointment
- Required voting majorities in the Council and General Assembly
- Procedures for appointment involving closed meetings in both the Council and Assembly and secret balloting.

Significantly, this resolution also established that the General Assembly should be presented with a single name only as a recommendation from the Council. (For example, see Security Council resolution 1090 of 13 December 1996, recommending the first appointment of the current Secretary-General.)

In 1950 the General Assembly, in highly exceptional circumstances, again took a prominent role in the appointment process. After a succession of inconclusive votes in the Council, which was in complete deadlock due to vetoes, the General Assembly decided in a majority vote to extend the term of the Secretary-General Trygve Lie without a recommendation from the Council.

Thereafter, until 1996, the General Assembly adopted a passive role. In practice, the General Assembly's only choice has been to vote the recommendation of the Security Council up or down, and it has accepted the Council's recommendations. With the exception of Trygve Lie's reappointment, the appointment of Secretaries-

General has always been determined by the Council—and effectively by its five permanent members.

In 1996 and 1997, however, the role and appointment of the Secretary-General emerged as an important issue in discussions of the Open-ended High-Level Working Group on the Strengthening of the United Nations System—an early phase of the current UN reform initiatives. The General Assembly adopted the Working Group’s report in resolution 51/241 on 22 August 1997, decided that:

57. The General Assembly shall make full use of the power of appointment enshrined in the Charter in the process of the appointment of the Secretary-General and the agenda item entitled “The Appointment of the Secretary-General of the United Nations”.

Furthermore, it outlined a role for the President of the General Assembly:

60. Without prejudice to the prerogatives of the Security Council, the President of the General Assembly may consult with Member States to identify potential candidates endorsed by Member States and, upon informing all Member States of the results, may forward those results to the Security Council.

The appointment of a new Secretary-General in 2006 will be the first new appointment made since resolution 51/241 was adopted in 1997. It is not yet clear how the General Assembly decisions of 1997 will be implemented this year in the context of the new appointment. If they are to play a significant role, there will need to be an understanding between the General Assembly and the Council on how such an interactive process would work.

2. What is the selection process?

For more than a decade, there has been criticism from civil society that the selection process for the Secretary-General lacks transparency, is out of touch with best practices in high-level public sector appointments in most countries and even other international organisations, and clearly needs updating. Some critics have even suggested that there is no agreed process at all.

The latter criticism is not well founded. In 1946 the General Assembly set up a process in resolution 11 (I) involving:

- the specific delegation of the lead role to the Council;
- a decision that the Council undertake the selection and recommend a single name;
- required majorities in both the Council and Assembly; and
- confidentiality of the process, and the requirement that discussion and decision-making in both the Council and the Assembly be private.

Confidentiality provisions were also inserted in the Rules of Procedure of the General Assembly (rule 141) and the Provisional Rules of Procedure of the Security Council (rule 48).

Both sets of rules require that both voting and discussion be held in private, but the General Assembly has traditionally made an important modification to this provision. Since 1946 it has become the custom, on the occasion of each appointment, for the General Assembly, on the proposal of the President, to make the appointment in an open session, rather than in a closed session as required in resolution 11 (I) and rule 141. In 1950, the only occasion in which there was a vote in the General Assembly, the meeting was open, but the vote was by secret ballot, as required by rule 141.

The most significant evolutions that have occurred since 1946 have been in the practice of the Council. These changes in process have taken place in closed, informal consultations and seem not to have been recorded as Council decisions. As a result, their status is unclear. These changes include:

- In 1981, the Council began the practice of conducting “straw polls” under which members would indicate either “encouragement” or “discouragement”.
- In 1991, the practice of colour-coded ballots emerged.
- In 1996, colour coding was used again and indicated the origin of the vote, i.e. “red” for permanent member and “white” for elected member.

In February 2006 the United Nations Secretariat published an informal fact sheet, which usefully provides further background on how the process works in the Security Council.

The straw-ballot process means that votes can be cast informally without having an official meeting in the Council chamber or casting official votes. As a result, the number of official meetings devoted to the selection process significantly diminished.

The reduction in “official meetings” had a significant effect. When an official meeting is held—even if it is a “closed meeting” under rule 55 of the Provisional Rules of Procedure—the Secretary-General must issue a communiqué summarising the outcome. By contrast, when straw-balloting takes place in informal meetings, there is no official information. The only information available to the international community comes by way of unofficial announcements by delegations or through leaks.

Clearly there is greater flexibility under the straw-ballot procedure. And there is the possible advantage that permanent members may find it easier to resile from a “red” straw ballot than a formal veto cast in the Council chamber. On the other hand, it has made the process even more secret.

The next major development took place in 1996/97 in the Working Group on the Strengthening of the United Nations System. A number of delegations noted that best practice for high-level appointments had significantly evolved in many countries

and in some other international organisations and that transparent processes were regarded as best practice for high-level appointments.

In 1997 the General Assembly recognised that a greater level of transparency was indeed desirable for the appointment of the Secretary-General and it decided in resolution 51/241 that:

56. The process of selection of the Secretary-General shall be made more transparent.

It also established the role for the President of the General Assembly in identifying potential candidates, as mentioned above. But there has been no substantive follow up of these decisions as yet and, as a result, it is unclear what they are likely to mean in practice in 2006.

In this regard, it is important to recall that the United Nations in 2005 introduced transparent procedures for the selection of executive heads of the UN Funds and Programmes. These procedures were employed in 2005 for the appointments of the heads of UNDP and UNHCR, resulting in transparency significantly greater than that seen in the procedures previously employed. New and somewhat improved procedures were also implemented in 2005 for senior appointments within the Secretariat. A summary of both sets of procedures is set out in A/60/312.

In addition, the World Trade Organisation in 2002 adopted a more transparent procedure for the appointment of its Directors-General. These include transparent criteria for candidates, a formal timeline and a process for meeting with candidates.

3. How important is the veto?

The exercise of the veto by permanent members of the Council has been the defining feature of the choice of every new Secretary-General, except in two cases: U Thant's appointment and Boutros Boutros-Ghali's first appointment.

The secrecy of the process makes it difficult to determine the number of vetoes cast in previous selections. And the picture is further clouded by the shift midway through the voting in 1981 to a system of straw ballots, about which even less information is available. But since negative straw ballots from a permanent member have had an effect similar to a veto, they are included to the extent possible in the list below.

1946 Trygve Lie (Norway) selected, with all other candidates opposed either by the USSR or the US.

1950 Lie's reappointment persistently vetoed by both the USSR and the Republic of China, but eventually renewed by the General Assembly without a Council recommendation.

- 1953** Dag Hammarskjöld (Sweden) eventually selected after several candidates were eliminated due to lack of majority, and Lester Pearson (Canada) was vetoed by the USSR.
- 1957** Hammarskjöld reappointed for a second term, with no vetoes.
- 1961/62/66** U Thant (Burma) appointed, with no vetoes.
- 1971** Kurt Waldheim (Austria) eventually appointed despite fourteen vetoes; Max Jakobson (Finland) and Carlos Ortiz de Rozas (Argentina) were each met with twelve vetoes.
- 1976** Waldheim's reappointment initially vetoed by China, then accepted.
- 1981** Javier Pérez de Cuéllar eventually emerged as a new candidate and was selected after Waldheim, running for a third term of office, received sixteen vetoes from China. Salim Ahmed Salim (Tanzania) received fifteen vetoes from the US, and Sadruddin Aga Khan (Iran) one veto from the USSR.
- 1991** Boutros Boutros-Ghali (Egypt) was selected after most candidates were eliminated on the basis of their level of overall support. No vetoes were cast.
- 1996** Kofi Annan (Ghana) was selected. The US veto of Boutros-Ghali's reappointment is well-known. What is less well-known is the huge number of subsequent "vetoes," or negative straw ballots, cast by permanent members after Boutros-Ghali suspended his candidature. The exact number is uncertain but it was probably more than thirty spread over the four candidates.
- 2001** Annan reappointed, with no vetoes.

The veto has therefore very often proved decisive. However, the ten elected members can also play a decisive role. While not able to use their majority to affirmatively determine the outcome, they have occasionally in the past established the equivalent of a veto during the early stages. Any appointee requires at least nine votes in the Council. Over the years, many candidates have been eliminated precisely because they had little support from the elected members at the early stages of voting.

The most recent appointment of a new Secretary-General, in 1996, also showed a further example of how the elected members can make an impact. During the rounds of "straw" ballots, Kofi Annan received a "red" ballot in seven rounds, indicating lack of support from a permanent member. Eventually the ballot changed

colour and Annan was selected, demonstrating how the weight of majority opinion can influence a permanent member.

4. Can the length of the term of office be varied?

The UN Charter, in article 97, does not specify a term of office for the Secretary-General.

In resolution 11(I) the General Assembly decided in 1946 that the first Secretary-General should have a term of five years, renewable for a further five years. But the resolution specifically provided that:

“The General Assembly and the Security Council are free to modify the term of office of future Secretaries-General in the light of experience.”

A term of five years has become customary, but this is entirely discretionary. The power of modification has been used. Trygve Lie was reappointed in 1950 for three years, and U Thant was appointed for only four years after he served for one year as Acting Secretary-General. In October 1966, U Thant’s term was briefly extended by two months pending a final decision on whether he would be granted a second full term.

In practice, the term of office for most Secretaries-General has actually been determined by the Council rather than the General Assembly. The Council has done this by including defined dates in its recommendation to the General Assembly. For example, Council resolution 1358 of 27 June 2001, established the second term of the current Secretary-General by recommending concretely that the term of office run “from 1 January 2002 to 31 December 2006.”

For the future, a different term of office is a possibility. The General Assembly could adopt a decision on the matter, or the Council could address it in an *ad hoc* manner by specifying a different term of office in its recommendation.

In 1996/97 the general question of the Secretary-General’s term of office was the subject of detailed discussion and negotiations by the Working Group on the Strengthening of the United Nations System.

There was strong support in the Working Group in early 1996 for establishing a maximum of seven years for any individual to serve as Secretary-General. Options canvassed included a single non-renewable term of seven years and an initial term of four years with a possibility of renewal for three years.

The concept of a maximum term limit was close to reaching consensus. However, in 1996, Secretary-General Boutros Boutros-Ghali, who had previously indicated that he would not seek a second term, decided to stand again. His candidacy was opposed by the US, and the issue of the term of office became politically controversial. In such circumstances it became impossible to make progress on a

general approach to term limits. Accordingly, it was not included in the Working Group's 1996 recommendations (A/50/24). However, other associated issues, like the proposal for a Deputy Secretary-General, which was born at that time, were eventually implemented.

In 1997, in the improved atmosphere after the election of the current Secretary-General, the Working Group agreed to the following:

58. The duration of the term or terms of appointment, including the option of a single term, shall be considered before the appointment of the next Secretary-General.

The General Assembly approved this conclusion in resolution 51/241 of 22 August 1997, and it became effective on 1 January 1998. The use of the term "next Secretary-General" as opposed to "next appointment" seems to make it clear that this was not to apply to Kofi Annan's reappointment decision in 2001.

Thus today, there is a clear mandate and indeed a requirement to review the question of the term of office before the appointment of the next Secretary-General.

5. Are there any requirements relating to the timing of the decision?

This issue was not addressed in 1946, and the practice relating to the first three Secretaries-General does not provide any helpful guidance. The early resignation of the first Secretary-General, and the death in office in 1961 of the second, presented cases in which member states had to respond to unforeseen situations well before the expected expiry of the terms. The problems in 1966, triggering the need for a short rollover of U Thant's term, appear to have arisen more as a result of indecision by the Secretary-General than due to any timing factor.

The more recent practice is as follows:

1971 Kurt Waldheim (appointment)

Expiry of previous term; 31 December

Security Council recommendation; 21 December

1976 Kurt Waldheim (reappointment)

Expiry of previous term; 31 December

Security Council recommendation; 7 December

1981 Javier Pérez de Cuéllar (appointment)

Expiry of previous term; 31 December

Security Council recommendation; 11 December

1986 Javier Pérez de Cuéllar (reappointment)

Expiry of previous term; 31 December
Security Council recommendation; 10 October

1991 Boutros Boutros-Ghali (appointment)

Expiry of previous term; 31 December
Security Council recommendation; 21 November

1996 Kofi Annan (appointment)

Expiry of previous term; 31 December
Security Council recommendation; 13 December

2001 Kofi Annan (reappointment)

Expiry of previous term; 31 December
Security Council recommendation; 27 June

The 2001 decision, in which the reappointment of Kofi Annan was made well before the expiry of the previous term, represented a marked change from previous practice. This may be due in part to the work of the Working Group, which had discussed this issue in 1996 and 1997 and recognised the advantages to the system if a last minute appointment could be avoided.

The Working Group's conclusions on the timing of the appointment were endorsed by the General Assembly in 1997 in resolution 51/241:

61. In order to ensure a smooth and efficient transition, the Secretary-General should be appointed as early as possible, preferably no later than one month before the date on which the term of the incumbent expires.

In this regard it is significant that both the International Labour Organisation and World Health Organisation have had successful experiences with early appointment decisions and the consequential opportunities for planned transitions.

6. Is there a requirement for regional rotation?

The UN Charter, in article 97, provides no guidance regarding rotation of the post of Secretary-General.

Asian countries are firmly of the view, based on their position that there is an applicable principle of rotation, that it is now Asia's "turn" for a Secretary-General. Reports suggest that there seems to be some support for that outside the Asian Group, but also some opposition. There is also disagreement as to whether there is any requirement for rotation.

The actual history of the terms allocated as between the regional groups does not establish anything that might be called a clear practice. The allocation of Secretaries-General by region has been:

Western Europe	6 terms
Africa	3 terms
Asia	2 terms
Latin America	2 terms
Eastern Europe	no terms

The pattern of candidacies that have been presented over the years is also an important indicator. It reveals that, on the majority of past occasions, candidates from multiple regions were presented and seriously considered, suggesting that both the candidates and the governments nominating them did not accept the existence of a norm of rotation. The pattern is as follows:

1946	Norway
1953	Poland, Philippines, Canada, India, Sweden
1961/62	Burma
1966	Burma
1971	Finland, Austria, Argentina
1981	Tanzania, Austria, Iran, Peru
1991	Zimbabwe, Egypt, Netherlands, Iran, Canada, Norway
1996	African candidates only
2001	African candidate only

U Thant's appointment as Acting Secretary-General came in the aftermath of Hammarskjöld's tragic death and there is no evidence either way that supports or denies a principle of rotation.

Certainly there is evidence at the time of Pérez de Cuéllar's selection in 1981 that Latin American delegations invoked a principle of rotation. But against that, as the range of candidates indicates, there seemed to be no agreement at that time on such a principle. Furthermore, his candidacy only emerged at a very late stage after candidates from other groups were eliminated in a bruising process involving many vetoes.

The very wide range of candidacies that emerged before Boutros-Ghali's appointment in 1991 raises further doubt as to whether Pérez de Cuéllar selection was based on any accepted policy of conscious rotation. However the outcome of the voting by the elected members suggests many were open to it being "Africa's" turn.

In 1996, there was always a very strong sense that if Boutros-Ghali was refused a second term, his successor should also be from Africa. That was clearly reflected in the way that member states from other regions held back from offering candidates.

But it is uncertain whether this flowed from any sense of a commitment to a principle of rotation as opposed to a sense of justice.

The practice up to 1996 therefore seems to reveal quite different positions held by at least three different groups of member states:

- Those who assert that a principle of rotation exists and should be followed strictly.
- Those who believe that no principle of rotation binds the Security Council, but who in practice are prepared to vote on an *ad hoc* basis in a manner that supports wider diversity.
- Those who reject any principle of rotation and support the freedom to champion the best candidate from whatever region.

However, the history now needs to be seen in light of the developments in 1996/7 in the High-Level Working Group. On 22 August 1997, the General Assembly endorsed its conclusions on rotation in resolution 51/241:

59. In the course of the identification and appointment of the best candidate for the post of Secretary-General, due regard shall continue to be given to regional rotation and shall also be given to gender equality.

This decision carries important implications for the next appointment. It speaks of:

- Identifying “the best candidate for the post”
- Due regard for “regional rotation”
- Due regard for “gender equality”

Regional rotation is mentioned for the first time in a resolution in the context of the appointment of the Secretary-General. Along with rotation, however, the resolution also introduced another new principle to which “due regard” must be given: “gender equality.” It is hard to read into the 1997 decision a conclusion that either of these factors should necessarily trump the other.

Nor is it possible, on the language approved by the General Assembly, to claim that either of these principles trumps the third principle which was introduced—that of “best candidate.” It seems likely, therefore, that there will continue to be disagreement on the matter, including on the interpretation of the words approved in resolution 51/241 and on the weight to be given to the various principles.

Perhaps, because gender equality is now elevated to the same level as regional rotation, and given that here has never been a female Secretary-General, this principle may carry more weight in 2006.

7. What is the status of the Deputy Secretary-General position and is it linked to the Secretary-General's position?

The concept of a Deputy Secretary-General position emerged in the discussions in the High-Level Working Group in 1996 and 1997. It had very strong support, but there was no agreement when the report of the Working Group was finalised in mid-1997, mainly due to disagreement over whether there should be a single deputy or several.

The issue was promptly resolved by the current Secretary-General a few months later. Some bold proposals for reform were set out in his report "Renewing the United Nations: A Programme for Reform" (A/51/950) of 14 July 1997, including the appointment of a single Deputy Secretary-General.

The proposal was for the Deputy Secretary-General to be a staff member, appointed by the Secretary-General, for a period not to exceed his own term of office. Remuneration was to be set at the midpoint between the Secretary-General and the next most senior position in the system. The position was to be established on the basis that the Deputy would derive authority by delegation from the Secretary-General and, as a result, would not be elected, appointed or confirmed by the General Assembly.

A further report from the Secretary-General on 7 October 1997 (A/51/950/Add.1), explained the job description:

- Assisting in leading and managing the operations of the Secretariat
- Acting for the Secretary-General during his absences from headquarters
- Ensuring inter-sectoral and inter-institutional coherence of activities that cross functional sectors
- Assisting with public awareness and contact with Member States
- Representing the Secretary-General at conferences and functions
- Overseeing UN reform
- Harmonising the work of the UN on the economic and social side with its work in the field of peace and security
- Helping the Secretary-General elevate the leadership of the UN as a leading centre for development policy and development assistance

On 19 December 1997, the General Assembly established the post of Deputy Secretary-General (A/RES/52/12B) as proposed by the Secretary-General.

The Secretary-General linked the term of the appointment to that of his own. Accordingly, although the current Deputy Secretary-General has announced that she will retire before the expiry of her term, it is probably not viable for the current Secretary-General to now appoint a replacement Deputy Secretary-General for a term longer than 31 December 2006 due to the linkage between the terms of office for the two posts.

This established linkage between the two posts raises interesting issues about the nature of the “top team.” The independence of the Secretary-General with respect to the appointment is clearly established. However, that does not preclude the possibility that some aspirants for the post of Secretary-General, wishing to enhance the attractiveness of their candidacy, may find it useful to present—at least behind the scenes—not only their own candidacy but also that of a “running mate.” Clearly such a “package” approach would increase the ways in which a balance of skills, rotation and gender could be achieved. But this possibility would likely increase broader interest in greater transparency of process.

UN Documents

Selected Security Council Recommendations

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

Selected General Assembly Resolutions

- A/RES/55/277 (6 July 2001) renews appointment of Kofi Annan.
- A/RES/52/1 2B (19 December 1997) establishes the post of Deputy Secretary-General.
- A/RES/51/241 (22 August 1997) adopts decisions on strengthening the UN system.
- A/RES/51/200 (17 December 1996) appoints Kofi Annan.

- A/RES/49/252 (3 October 1995) establishes Working Group on the Strengthening of the UN System.
- A/RES/46/21 (3 December 1991) appoints Boutros Boutros-Ghali.
- A/Res/41/1 (10 October 1986) renews appointment of Javier Pérez de Cuéllar.
- A/RES/36/137 (15 December 1981) appoints Javier Pérez de Cuéllar.
- 31/60 (8 December 1976) renews appointment of Kurt Waldheim.
- 2903 (XXVI) (22 December 1971) appoints Kurt Waldheim.
- 2161 (XXI) (2 December 1966) renews appointment of U Thant.
- 2147 (XXI) (1 November 1966) briefly extends appointment of U Thant.
- 1771 (XVII) (30 November 1962) appoints U Thant.
- 1640 (XVI) (3 November 1961) appoints U Thant as Acting Secretary-General.
- 1229 (XII) (14 December 1957) renews appointment of Dag Hammarskjöld.
- 709 (VII) (7 April 1953) appoints Dag Hammarskjöld.
- 492 (V) (1 November 1950) extends appointment of Trygve Lie for three years, without a Security Council recommendation.
- 64 (II) (1 February 1946) appoints Trygve Lie.
- 11 (1) (24 January 1946) establishes terms and process for appointment.

Selected Secretary-General Reports

- A/51/950 (14 July 1997), Report of the Secretary-General *Renewing the United Nations: a Programme for Reform* proposes post of Deputy Secretary-General.
- A/51/950/Add.1 (7 October 1997), explains the job description for the Deputy Secretary-General.

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