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SESSION 4: Are Present Global Institutions Still Relevant?

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EXECUTIVE SUMMARY

The purpose of "issue papers" in this conference is to guide the debate, in order to make consensus more likely. It is not meant to be a vehicle for the promotion of the individual theses of the author but a pedagogical tool, to raise leading questions, describe the range of answers which have been advanced vis-à-vis these questions and then let the roundtable members express their views on them. A mapping of these views will then allow either consensus points to emerge or legitimate differences to crystallize, itself a positive result.

This particular issue paper poses the question of the relevance or irrelevance of present global institutions. How are we presently managing our world? Is the present global order still capable of meeting today's challenges, let alone tomorrow's or is it in danger of becoming a global disorder? Is anyone in charge? Is the network of present global governance institutions still useful in 2006 and beyond, or is it becoming dysfunctional?

To establish the parameters of the debate the foundations of the present global order are examined. These go all the way back to the Treaty of Westphalia (1648), which ended the European Thirty Years' War and established national sovereignty as the fundamental cornerstone of international relations.

"Sovereignty" is the ultimate legal power on Earth which by definition is unchallengeable. There is no appeal against an "act of sovereignty." Authority is exercised over a piece of geographical territory and extra-territorial projections of power are not allowed. The sovereignty of one country stops where that of another begins. This leads to the equally fundamental principle of non-intervention in the internal affairs of another sovereign state.

When two sovereignties clash, then, if mediation fails, war is allowed as a method of conflict resolution. The Westphalian System, however, tried to make sure that if war did break out it should follow rules of engagement and

be as “humane” as possible, including the treatment of prisoners, the protection of civilians etc.

Although the actual operation of the system has evolved over the past four centuries, for practical purposes the Treaty of Westphalia may be considered the **implicit constitution of the world and its basic operating political system.**

After the end of the Second World War, the victorious powers, intent on preventing further wars, created a system of intergovernmental organizations (IGOs) often referred to as the “Multilateral System.” At the heart of it is the United Nations, the Bretton Woods institutions, and many other specialized IGOs born between 1945 and 2006.

This Multilateral System can be viewed as a “**First Amendment**” to the Westphalian Order. Although it re-affirmed the principle of national sovereignty as the basic premise for the distribution of legitimate authority in the world, it also introduced some innovations. For instance, the UN Security Council appears to have some supranational power in that it can order military interventions against nations, whether they are members of the UN or not, thus departing from the principle of the sanctity of national sovereignty. However, the actual operation of these supranational powers by the Security Council remains confused and controversial. In addition, the fact that some members of the Security Council hold a veto while others do not, also violates the Westphalian principle of sovereign equality.

A “**Second Amendment**” seems to have developed when, in response to subjectively perceived threats, individual countries or groups of countries (“coalitions of the willing”) have begun to intervene militarily or otherwise within the territorial sovereignty of other states.

An extreme case of unilateral breach of the sovereignty principle came when US President George W. Bush launched the military intervention against Iraq in 2003 and invoked the doctrine of “pre-emptive war”. What its parameters are remain unclear. Is pre-emptive war the prerogative of just the US? Is it invokable by a reigning superpower at any one point in time: the US today, China tomorrow? Is it also available to regional superpowers like Israel in the Middle East or India in Asia? Ultimately, can anyone attack

its neighbor if a threat is perceived, whether rightly or wrongly? These are serious questions because, if pre-emptive war is considered a legitimate policy instrument, then international wars are going to be extremely frequent.

A “**Third Amendment**”, which is actually the first true “post-Westphalian” innovation, has come from Europe. The European Union integration process includes *the transfer of sovereignty* from member states to European institutions. For example, European Law has precedence over national laws, a clear derogation to the sovereignty principle. The blueprint for European integration is clearly post-Westphalian, although its implementation is confused and controversial, especially since voters in France and the Netherlands rejected the proposed European Constitution by referendum in 2005.

Today (early 2006) the multilateral system is an “alphabet soup” of acronyms. The principal actors of the world system include:

- 191 nation states,
- thousands of sub-national governments wielding quasi-sovereign powers in certain areas,
- hundreds of IGOs with unclear mandates and redundancies, and
- a rising tide of non-state actors who, for better or worse end up assuming governance functions.

The sum total of the interaction of these various actors and, especially the ambiguity of the modus operandi of the global system - Westphalian in some senses and post-Westphalian in others - have convinced some observers that potential chaos lies ahead. For them, a Martian visiting Earth in 2006 might well conclude that **no one is in charge**.

From this structural analysis we can formulate the following basic question:

Are the present global institutions (primarily Westphalian, modified by the post 1945 “amendments”) still relevant in the world of 2006 and beyond? If not, should we lobby for (a) “major constitutional change”: a sort of Westphalia II, featuring a new version of supranationality, or (b) be content with minor adjustments and small changes in existing institutions. The former might be too ambitious while the latter quite possibly insufficient to deal with current and emerging problems. Where is the proper balance?

In order to better structure the debate, the main question may be broken down into the following four questions:

SUGGESTED QUESTIONS FOR THE PANEL

- 1 - What are the most important structural weaknesses of the present Multilateral System?**
- 2 - Have there been any positive recent developments in 2004 and 2005 to deal with these weaknesses? If so, what are they?**
- 3 - Given the answers to the questions above what are the realistic targets for positive change in the next 5 years?**
- 4 - How can the New School of Athens help in achieving these targets in the next 5 years?**

1- STRUCTURAL ANALYSIS OF PRESENT GLOBAL INSTITUTIONS

ORIGINS OF THE CONTEMPORARY GLOBAL ORDER

The Westphalian System as implicit World Constitution

The world is managed today, at the political level, by an implicit world constitution known to political scientists and legal experts as the Westphalian System, created by the Treaty of Westphalia (1648) which ended the Thirty Years' War, the last major religious war in mainland Europe. The significance of this treaty for world history is based on the following facts.

Pre-Westphalian Europe was a mixture of declining empires, retreating feudal lords, and an emerging class of traders and capitalist entrepreneurs; with the Church remaining very influential. The Treaty of Westphalia not only brought an end to the first pan-European war in history, under the terms of the peace settlement, a number of countries were confirmed in their sovereignty over territories.

In a nutshell, the central authority of the empire was replaced almost entirely by the sovereignty of about 300 princes. The Treaty of Westphalia was a turning point in the mutual recognition of sovereignty rights. Although the signatories of the treaty had the peace of Europe as their ultimate objective, the unintended consequence of their efforts was to create a global order based on a "state system."

Originally derived from the Latin term *superanus* through the French term *souveraineté*, sovereignty came to mean the equivalent of supreme power. It was used by Jean Bodin in France to provide legitimacy and strengthen the power of the French King in his battle with rebellious feudal lords. The doctrine of the divine right of kings, according to which kings are only answerable to God and cannot be challenged by human beings, is a close cousin of the concept of sovereignty. It led Louis XIVth to utter his famous *L'Etat c'est moi* boast. The king and the state were indeed indistinguishable

in his time. Therefore, next to God, the king could exercise absolute power in complete legitimacy.

From its origins as the prerogative of the king, sovereignty slowly evolved, in some countries at least, as the reflection of the unchallengeable will of the people, sometimes referred to as the doctrine of popular sovereignty. The interpretations given by John Locke in the 17th century and Jean-Jacques Rousseau in the 18th, linked sovereignty to democracy, via the doctrine of the social compact according to which the “people” are the ultimate owners of sovereignty. They may delegate to governments strong powers to be exercised in their name, but they are the ultimate masters and may withdraw that delegation by voting governments out of office.

The French Constitution of 1791 declared “Sovereignty is one, indivisible, inalienable and imprescriptible.” But whether based on the divine right of kings or the unchallengeable will of the people, sovereignty became the absolute reference point in global relations, the ultimate principle upon which all notions of global order should be based. It was to international relations what the speed of light was to Einsteinian physics: an absolute. The only rightful owners of this sovereignty were the governments of recognized states.

In the Westphalian System, the sovereignty of nations expresses itself through the control of geographical territory. This was a legacy of the feudal principle “*nul terre sans seigneur*.” Land was the principal factor of production in the feudal world and its control yielded both economic and political power. This “real estate” bias, so to speak, was an essential ingredient of the Westphalian System. Although by the 19th and certainly the 20th century, industry became more important than land, the territorial focus in the exercise of authority remained strong. Land was the ultimate stake in the Westphalian paradigm and nations were quite willing to sacrifice millions of lives over it.

As the pre-Westphalian players receded to backstage, the new stars occupying center stage were the nation-state governments. As European economic development in the 17th, 18th and 19th century eventually led to

greater international trade and colonial expansion, major corporations became more prominent. However, economics remained subordinate to politics, at least in the non Anglo-Saxon countries. During Louis XIVth's reign Jean-Baptiste Colbert developed the techniques of state coordination of economic activity into a fine art. Corporations were likened to armies attacking foreign interests and conquering foreign markets in the name of the king. Unpatriotic corporations were stripped of their state monopoly.

This subordination of economic interests to national goals remained a dominant feature of international relations for most Western Europe countries in the 18th, 19th and 20th century. Napoleon, Bismark, Hitler Stalin and perhaps even De Gaulle, Mitterand, Adenauer and Kohl saw the national interest as taking precedence over economic interests.

Scholars developed the second source of international law, more as an intellectual pursuit with no automatic implementation procedures. This was known as "natural law" as Hugo Grotius and others put it. Based on assumed universal values it was occasionally acknowledged as a justification for international action. But it never gained sufficient momentum to override the principle of state sovereignty and to form the legal basis for international intervention into the affairs of another state. The only real international law was that derived from treaties.

As international relations intensified in the 18th and 19th centuries a body of international law slowly began to emerge emanating from two sources. The principal and only truly enforceable law was the body of agreements resulting from treaties between sovereign countries and applying only to the signatories. International law was a form of delegated authority which could be taken back by repealing the treaty which transferred that authority. This type of international law merely reaffirmed the primacy of sovereignty since no sovereign country could be forced to accept what it had not consented to. It could be coerced into acceptance through defeat in war, but it is only after the capitulation or peace treaty that it would be legally bound, not before. In a Westphalian war unconditional surrender or capitulation is the proper way of legally transferring sovereignty from the vanquished to the victor.

There were implicit rules of engagement, limitations on types of weapons, rules of victory and defeat and a recommendation of gentlemanly behavior throughout. For instance, in the 18th century battle of Fontenoy, the French were reputed to have invited their British adversaries to *tirer les premiers* in an emulation of a courteous duel. One 18th century strategist even argued that battles could be decided with practically no bloodshed but by pure maneuver. When one army was obviously outmaneuvered by the other, its general, as a gentleman, should have the courtesy to surrender, in the same way that a chess grandmaster will resign long before the checkmate, when it becomes obvious that the game is lost.

In the 19th and 20th century elaborate rules of war were further systematized, including proper ways of declaring war, diplomatic immunity, the treatment of prisoners, methods of capitulation etc. The Geneva Convention with its precise rules is a good example of the Westphalian concept of war. So is the Charter of the United Nations, which recognizes the legitimacy of war in certain circumstances.

One of the surprising by-products of the Westphalian global order was its implicit retention of war between sovereign states as a legitimate instrument of external policy. Clausewitz famous words, “War is an extension of policy by other means” was in retrospect, very Westphalian in form and content. The use of force to settle conflicts has always existed but the innovation brought by Westphalia was the introduction of the concept of war with rules.

Although not explicitly present in the Treaty of Westphalia itself, the legitimate possibility of war between states was a logical extension of the primacy of sovereignty. If two sovereign states disagree and there is no power greater than sovereignty, the conflict resolution must come through war. In the same way that dueling between gentlemen became the proper way of settling an aristocratic quarrel, war between states also was considered acceptable, as long as certain rules were followed.

THE GLOBAL ORDER 2006 – OPERATING SYSTEM

The Multilateral System 1945-2006.

Following the end of the Second World War the victorious powers created, over a period of time, a number of Intergovernmental intergovernmental Organizations organizations (IGOs) to prevent further wars and to create some sort of global governance for the world. As a whole, the group of IGOs became known as the Multilateral System and in 2006 includes the following:.

- The United Nations Family of Organizations (Bretton Woods Institutions, the UN General Assembly, the Security Council, Specialized agencies such as Unesco)
- Other global IGOs. (OECD, WTO, etc),
- Continental and regional IGOs (European Union, NAFTA, APEC, MERCOSUR etc)
- Single Purpose IGOs with mixed regional and global responsibilities (example NATO for security, with European origins yet operating in Afghanistan)
- Mixed IGOs (Public and private)
- Private international organizations with governance responsibilities (ICANN re the regulation of the Internet, the IOC (International Olympic Committee etc)
- Global directorates - self appointed committees of nations acting as de facto "boards of directors" for the world economy etc. (Example G8, etc)

Modus Operandi of the Multilateral System.

If the Treaty of Westphalia can be considered the de facto constitution of the world, the Multilateral System born and developed between 1945 and 2006 can be considered an "amendment". The pure Westphalia "1" system was based on the sanctity of national sovereignty as follows :

- National sovereignty is still recognized as the ultimate legal power on Earth against which there is no appeal. It is an absolute which cannot be challenged in any higher court
- Sovereignty is exerted over geographical territory and, in principle has no extra-territorial extensions.

The Multilateral System adds another layer of government at the global level but does not really create supranational bodies. It is a sort of Westphalia "1.5". This leads to a hybrid situation where

- Decisions made by IGOs derive their authority from delegation by member states who can withdraw such authority. In principle there is no irrevocable transfer of sovereignty except in the case of the European Union where no formal retreat, so to speak from signed treaties is envisioned,
- Non intervention in the internal affairs of member states remains the rule and is even enshrined in the Charter of the United Nations
- Sovereign Equality : . All sovereign countries are by definition equal, independently of demographic or economic size. Therefore, in IGOs all decisions have to be taken by the “one country one vote” formula and no country, because it is sovereign, can be forced to accept a decision made by others. *This means that consensus is the only rule acceptable by international organizations accepting the sovereign equality principle.*

Methods of Global Governance.

The management of the world, according to the present global system , rests principally on five instruments:

1. **Treaties** between sovereign countries which in theory should be applied as the "law of the land" by signatory countries but in fact is not. Many countries do not apply the treaties they have signed. Others like the United States consider treaties as subordinate to the will of the U.S. Congress, thus, somehow suggesting that U.S. sovereignty has precedence on all others and is the ultimate reference point. US presidents have repeatedly placed the US Constitution

above treaties and above the sovereignty of other countries, a position hotly contested by everyone else. As a result, the *global governance by treaty* remains an ineffective method of the application of authority. There are hundreds of treaties on bookshelves signed and ratified by sovereign countries and completely ignored.

2. **International Courts.** These focus on dispute resolution but their decisions are not necessarily enforceable unless the country in question wishes to comply. As in the case of treaties they have limited effectiveness.
3. **IGOs** use a form of moral suasion with "recommendations", "voluntary guidelines" or "resolutions" to convince an individual country to comply.
4. Use of **sanctions** which are mostly economic and occasionally military. The historical effectiveness of sanctions is very mixed. They occasionally work but, in the large majority of cases are insufficient to enforce compliance on a reluctant country
5. **Military force.** Allowed under certain circumstances by the UN Security Council and sometimes used unilaterally by powerful countries, either individually or within ad hoc "coalitions of the willing", military force is often effective but rarely legitimate, hence complicating the enforceability of global governance.

<p>All told, the methods of contemporary global governance are either legitimate but ineffective or effective but of doubtful legitimacy.</p>
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THE GLOBAL ORDER 2006 - PRINCIPAL ACTORS

The present system of global governance, based on the Westphalian Order involves the participation of a number of state and non-state actors

The STATE ACTORS include:

(1) 191 sovereign national governments which are members of the United Nations who recognize each other's "sovereignty".

(2) 500,000+ sub national governments. “Governments” may be defined as entities which (a) have the monopoly of the legal use of force in a given geographical area, (b) can enact laws and enforce them, (c) can levy taxes and, in general assume other "governance" functions. Such entities include state governments in federations and confederations, regional groupings within countries, and municipal governments. Adding these up at the world level, leads to hundreds of thousands of governments and quasi-governments. Even in a unitary state such as France there are 36,000 communes wielding limited governance functions. With the emergence of new areas of governance such as environmental protection, communication, culture, health etc. overlapping jurisdictions between national and sub-national government create complicated and problematic redundancies.

(3) Hundreds of IGOS (Intergovernmental Organizations created by treaty and possessing powers delegated by the sovereignty holding national governments). These include the WTO, the IMF, the OECD and the extensive United Nations family of organizations and agencies. We must also note, hybrid IGOs composed of a mixture of public and private representation. An exact number is difficult to arrive at but, in all likelihood in would be in the high hundreds

(4) Continental Blocs such as the European Union where sovereignty is officially ceded to the European IGO (The European Commission). It is important to note that, alone among regional and global blocs, the European Union specifies that European law has precedence over national law, thus in effect creating a supranational level of government which legally trumps national sovereignty. Other continental blocs include NAFTA (North American Free Trade Association) MERCOSUR in Latin America etc., but these second level regional blocs are more economic than political and social. The most politically integrated bloc is the European Union.

(5) One Superpower: the United States. With the collapse of the Soviet Union and the relative political and military decline of Russia, the United States has emerged as the only superpower. China is a potential future

superpower. The European Union is also a potential contender, but in 2006 only the US can aspire to true superpower status. This fact unbalances the global governance system since the official governance structures (the IGOs) are less powerful than the sole superpower.

The NON-STATE ACTORS

These have an effective say in global governance although they are not mandated to do so. They include at least three groups of actors :

(1) MNEs (Multinational Enterprises) possess great economic influence because of their spending power. A comparison of the spending power of MNEs versus the spending power of national governments, holding nominal sovereignty, expressed by public sector budgets, reveals a growing imbalance in favor of the former. Indeed if the top 100 economic actors in the world were to be assembled in one group on the basis of spending power, there would be 63 corporations and only 37 governments. The top corporations such as Wal-Mart, GM, etc. could qualify, on that basis, for membership in the G8. Moreover, a holding company of the first dozen multinationals could outspend even the US government. The "political" role of corporations is expressed in a number of ways:

- The very high transnational mobility of multinationals allows them to use that mobility as leverage to obtain tax concessions and other benefits from host governments and by so doing may influence the political process.
- In Western democracies, and especially the US, the rules of election financing allow multinationals and corporations in general, to weigh in very heavily in favor or against candidates for office. By so doing they can transform a democratic process from a "one person, one-vote" decision rule to a "one dollar, one vote" alternative. The candidate who can spend the most has the best chance of winning.

(2) NGOs (Non Governmental Organizations) exert a political influence on the world in a number of ways:

- They reframe the international discourse, identify issues and alert public opinion to impending dangers long before governments do. They work through networks, coalitions and the Internet
- They advocate changes and promote them, such as landmine treaties, sustainable development, climate change treaties etc.
- They block legislation and treaties that transfer power from the public to the private sector (opposition to the Multilateral Agreement on Investment at the OECD, the Seattle Millennium Round and other WTO initiatives etc.)

The negative side of NGOs is their lack of transparency and democratic accountability. All told, NGOs exert considerable moral power which has historically been more effective in blocking what are considered undesirable government initiatives, rather than initiating new ones. This, however is changing and the capacity of NGOs to innovate and suggest ideas which ultimately find themselves in international treaties many years, later is beginning to be felt.

(3) SIGs (Special Interest Groups). Corporations are largely visible and powerful non-state actors in global governance. NGOs are less powerful but exert moral influence and are also visible. However, there is a class of non-state actors whose principle characteristics are "invisibility" associated with great influence. Their influence is exerted in a covert fashion, but because they are invisible, their very existence is difficult to prove. Yet some analysts will argue that the SIGs are among the most important actors in national and global governance. These SIGs include the following

- Organized Religious Sects & Secret Societies
- Organized Crime (Mafias: Sicilian, Russian, Asian, East European)
- Single Purpose Lobby (gun lobby, Ku Klux Klan etc.)
- Terrorist Groups (Al Qaeda etc.)

2 - CONTEMPORARY THREATS AND CHALLENGES

Economic Threats

Threat of Unemployment. The process of globalization and the footloose nature of multinational enterprises, who can relocate in different countries with a very short lead time, has increased the threat of unemployment in high wage areas. Some feel that a "race for the bottom" is being engaged with countries which have generous social policies vis-à-vis their labor force, losing out to lower cost competitors. The unemployment threat emanating from the migration of industry and the globalization of services has been exacerbated by growing technological employment both in bureautics and robotics, although the latter is still in its infancy. *Today every worker's job is potentially threatened by either another worker in a lower cost country or an automated machine or both.*

Poverty and Growing Income Inequality. The traditional North-South division of haves and have-nots has been transformed by the emergence of "souths" in the "north" and "norths" in the "south". There is poverty in north and pockets of affluence in the south. Growing inequality of income distribution has led to what some have called a "winner-takes-all" economy where fewer and fewer "winners" obtain larger and larger shares of the gross world product.

Corporate Scandals. The globalization of production has created opportunities for increased white collar crime, both at the individual and the corporate level. The absence of global rules and the high geographical mobility of corporations has created situations where individual footloose corporations can pit one jurisdiction against the other and get away with a behavior which may be considered socially and environmentally deleterious - without breaking any rules, because there are very few at the global level which are truly enforceable

Environmental Threats

Natural Disasters. The large number of natural disasters in the last two years 2004-2005 have added a new challenge for global governance : the management of these disasters, before, during and after their occurrence. The Asian Tsunami, the Pakistan Earthquake and the repeated hurricanes in the Caribbean, of which Katrina was the worst, has exposed the unpreparedness of governance institutions in attempting to meet them.

Unsustainable Development. Ecological imbalances due to rapid industrial growth in a number of countries, some already developed, others, like China expanding economically at very high speed, have exacerbated the problem of unsustainable development,

Climate Change. Climate change, increasingly recognized as a major threat has yet to find a satisfactory counter, since the Kyoto Protocol has not been ratified by the United States and is, itself questioned by a number of signatories. It is a disaster which could occur in a much shorter period of time than initially supposed.

Pandemics. The threat of SARS in 2003-2004, avian flu today, the spread of AIDS and the persistent scourge of major diseases like malaria are high on the agenda as global challenges. Existing IGOs like WHO (World Health Organization) have limited powers to deal with these potential threats, which may also occur practically overnight

Security Threats

Global Terror. Since 9/11 the threat of terrorist attacks remains high. Although statistically not as important as other threats, the seemingly random pattern of terrorist attacks in many countries in the world creates a sense of collective insecurity and fear.

Global Organized Crime. Globalization has created major opportunities for organized crime to operate at the global level and escape from competing jurisdictions. In some cases, terrorist and criminal organizations combine their actions as in kidnappings in Iraq and Latin America.

Geopolitical Imbalance. The "United States as sole superpower" situation that prevails in 2006 has created a geopolitical imbalance that has been deplored by some as fundamentally destabilizing. In contrast, the Cold War has been judged as being in retrospect a period of stability, where MAD (mutually assured destruction) threats by the US and Soviet Union nuclear superpowers contributed to peaceful conflict resolution via geopolitical balance. Today, the rise of rogue states, potentially possessing weapons of mass destructions has contributed to collective fear.

3- MONITORING RECENT DEVELOPMENTS IN GLOBAL GOVERNANCE

The following top ten initiatives are worthy of note. They were discussed in 2005. Some led to interesting advances, others did not. The first six have to do with proposed global policies and the last four refer to proposed changes in global institutional architecture.

1- Fight against poverty

The Millennium Development Goals (MDGs), accepted by governments around the world at the UN summit meeting of 2000, are at the top of the development agenda. The eight MDGs – which range from halving extreme poverty to providing universal primary education, all by 2015 - gave the UN and the Bretton Woods institutions a common agenda. Yet, leading up to the UN Millennium +5 summit this past September many studies contend that most, if not all, the MDGs are behind schedule.

As for the achievement of an official development assistance equivalent to 0.7% of Gross National Product (GNP), there was a stronger push in 2005 for donor states to commit themselves to a timetable for its achievement thanks to UN Secretary General Kofi Annan's report on UN reform ("In Larger Freedom") as well as continued efforts from NGOs and others.

From a governance viewpoint, some continued to argue that the concern of poor countries and poor people should constitute an integral part of any democratic design for global governance, and that "It is not enough to focus on the existing system and to search for the missing institutions. It is also necessary to recognize the importance of a new set of actors on the stage who, unlike governments, do not approach problems from the perspective of national interest."¹

2- Global Taxes

There has been some talk in 2005 about the imposition of global taxes. The original Tobin Tax discussed in some earlier G8 summits has been shelved

¹ Governing Globalization: Issues and Institutions, Deepak Nayyar and Julius Court, UNU World Institute for Development Economics Research

for now. However, taxes on oil and travel have been suggested. In some countries a travel tax is indeed being levied. However the problems in the issue of global taxes remain quite complex and fall into two categories:

- How are the taxes going to be collected? By what global institution? How will we insure that tax havens or tax avoidance create counterproductive effects, negating the rationale for the taxes themselves?
- How will the proceeds of the global taxes be spent? By what institution? By whose authority? For what purpose.

In the absence of appropriate global governance structures the whole question of these taxes, from their collection to the spending of the proceeds, remain too complex to deal with in any adequate fashion.

3- International Corporate Governance

There were increasing appeals for an international system of governance for transnational corporations. These would include: a discipline on restrictive business practices, an international regime of anti-trust laws, taxation of large transnational corporations. A study by UNU/WIDER argues that a system of governance for transnational corporations would not have to begin from scratch. It could build on earlier work by the UN Conference on Trade and Development, the lessons of the European Union, and initiatives by the OECD.²

- Another important initiative regarding the social responsibility of corporate entities is the Global Compact which Kofi Annan first proposed to the World Economic Forum in 1999. “He challenged world business leaders to help build the social and environmental pillars required to sustain the new global economy and make globalization work for all the world’s people...It is not a substitution for effective action by governments, but an opportunity for firms to exercise leadership in their enlightened self-interest

² Governing Globalization: Issues and Institutions, Deepak Nayyar and Julius Court, UNU World Institute for Development Economics Research

(voluntary). ³ However, critics argue that it “may not be effective because of its voluntary nature, and that corporations use it more as a public relations tool.”⁴

4- Global Macroeconomic Management

There is a growing need to deal with global financial crisis management and crisis prevention, as well as global economic development (integration of developing world in global economy). Thus, some argue that not only do we have a problem of missing or inappropriate institutions, but we need global policies dealing with exchange rates and capital flows, business law, accounting practices, cross-border movement of people, coordinate national action against market failure or abuse etc.

5- Climate Change

Climate change remains a pressing issue which unfortunately remains largely unresolved. It is pressing because of the deleterious results of climate change (extreme weather, hurricanes etc.) are appearing everywhere. But solutions remain elusive. Although the Kyoto Protocol has been signed by a number of countries, some important ones have not ratified it, the most important being the United States. In addition, among the countries which have signed, there is increasing skepticism on its enforceability and effectiveness.

The climate change conference in Montreal at the end of 2005 allowed the world community to continue the dialogue but no major breakthroughs were achieved. The same can be said about the G8 meeting in Gleneagles Scotland; constructive discussion, some statements of principle but few immediately enforceable policies.

6 - Security Concerns

One of the main planks of the UN Secretary-General’s 2005 report on reforms “In Larger Freedom” revolves around security – *Freedom from Fear*. But there is a lack of consensus on security issues - they range from the

³ Global Governance and the Role of the Private Sector: Research Brief, Authored by Nova Sayers & Cynthia Rekar for the World Affairs Council Executive Forum on Global Business Paradigms 2002, Nova Sayers, World Affairs Council July 2002

⁴ Ibid

use of force, effective, efficient and equitable security, small arms and the nexus of terrorism and weapons of mass destruction.

However, there continues to be greater support for *Responsibility to Protect*: “an evolving concept about the duties of governments to prevent and end unconscionable acts of violence against the people of the world, wherever they occur... [that] The international community has a responsibility to protect the world’s populations from genocide, massive human rights”⁵ Secretary General Kofi Annan “endorsed the emerging norm of the Responsibility to Protect. His report had stressed the need to implement more fully the international law that already exists, particularly international humanitarian law, not to develop new international law.”⁶ . Furthermore, “member states embraced the Responsibility to Protect populations in the Outcome Document of the 2005 World Summit.”⁷

Other security items include: establishing a UN Peace-Building Commission to respond to pre and post-conflict states; establishing a Volunteer Peace Force; outlawing terrorism (new definition of terrorism); making the IAEA Additional Protocol mandatory; and dealing with issues of pre-emption and prevention.

7- UN Security Council Reform

For more than a decade, and without any result, there have been debates between nations on Security Council (SC) reform in the UN General Assembly. Many argue that the SC is clearly facing a crisis of legitimacy. Security Council expansion scenarios are due to different understanding of this crisis of legitimacy, and this leads to three categories of reforms:

- **Composition of the Council;** some argue that, and want an expansion in SC members. However, the number of new members, which geographical regions should be represented, and the standing

⁵ www.responsibilitytoprotect.org

⁶ The UN: Adapting to the 21st Century Conference Report, The Centre for International Governance Innovation, April 3rd – 5th, 2005

⁷ <http://www.responsibilitytoprotect.org/index.php/features/383?theme=alt5>

and ability of new member are areas of contention. As well, a change in SC membership requires revision of the UN Charter.

- **Decision-making of the SC**; others claim legitimacy springs from performance, and want to reform its working methods. The main issue here involves the use of the veto, perhaps with a moratorium on its use, using a double or triple veto, or overrule of the veto. ⁸
- A third category of reformers argue **both approaches** are required: to enlarge the membership of the Security Council and to circumscribe its veto powers.

We must keep in mind that the SC's 5 permanent members are unlikely to relinquish their special status and power easily. This is bound to be so especially in times when international relations are marked by turmoil and great insecurity... and when the world's most powerful state prefers unilateral decision making to the kind of international society provided by the UN. What is achievable may be limited for some years to come. Ideas and proposals for UNSC reform abound, but political will and commitment are not yet on the horizon."⁹

8 - Leaders-20

Another possibility for reform is the Leaders-20 (L-20), a top-down approach that draws its inspiration from the G-8 leaders' meetings and the G-20 finance ministers' meetings. One of the ideas behind the L-20 would be to help reform existing institutions from the outside. As Andrew S. Thompson writes: "The purpose of such an organization would be to bring together the leaders of key states in the hope that an informal meeting of peers might lead to resolutions of issues over which deadlock has thus far been the norm. *The L20 would be small enough in the number of member countries to permit informal and highly personalized relations, yet encompass 80 percent of the world's population and 90 percent of its economic activity.*"¹⁰

⁸ Marianne Hanson, *The challenge of United Nations Reform*, Published by Department of International Relations, The Australian National University Canberra

⁹ *Ibid*, page 10.

¹⁰ *Reforming from the Top: A Leaders' 20 Summit*, Policy Brief written by Andrew S. Thompson, University of Waterloo, Canada, © United Nations University 2005 ISSN 1813-5706

An L-20 would meet annually at the summit level. "It would deal with inter-institutional and interdisciplinary issues that exceeded the mission of existing international organs and the portfolios of individual ministers. An L20 would allow countries to discuss and promote action on the major cross-cutting global issues of the day, including, for example, bioterrorism and health pandemics, the MGD targets, energy efficiency and climate change and the Doha trade round."¹¹ Furthermore, an L-20 could be extremely helpful in dealing with global economic security. "An L20 could establish priorities to provide an updated regime of economic security...the L20 provide a favorable composition of countries to ensure discussion on tough, often avoided, topics among both emerging and developed nations".¹²

9- European Constitution

The proposed European Constitution was rejected in referenda held in France and the Netherlands. These rejections have stalled the European integration process, at least for a while. What is at stake goes beyond European borders. Europe is the region of the world that invented the Westphalian System of global governance centered on the notion of national sovereignty. As was discussed earlier this System is, for all intents and purposes, the de facto Constitution of the world.

The proposed European Constitution, which is an integration of a number of treaties signed by the member states of the European Union, is, in effect, the first "post-Westphalian" attempt at going beyond national sovereignty and introducing concepts of supranationality. Its present failure has a negative impact on global governance models.

10- World Parliaments

The desire to democratize globalization has led to the proliferation of NGOs advocating some form of global parliament, either of the one person, one vote system or on the basis of a system of weighted votes, or by the institution of bi-cameral, world legislative bodies. The latter would include a "house of the people" (one

¹¹ The UN: Adapting to the 21st Century Conference Report, The Centre for International Governance Innovation, April 3rd – 5th, 2005

¹² Economic Security: L20 and Financial Crises, www.cigionline.org/publications/docs/g20.ottawa2.financial.pdf

person, one vote) and a “house of nations,” like the present general assembly of the United Nations based on one country = one vote. Although the idea of a global parliament has not yet made its way into official government-to-government negotiation, it is progressing spontaneously at the level of civil society.

4- SUMMARY OF STRUCTURAL ISSUES

From the preceding analysis we can now pinpoint the principal structural issues facing present global institutions

1- Chasm between Authority Systems which are National and Challenges which are Global

- Most of today’s challenges are transnational, continental or global. Yet authority systems based on the Westphalian global order have as their base national sovereignty.
- This creates a major gulf between challenges and the means to successfully meet them.

2- Dilution of Sovereignty

- Sovereignty itself is increasingly diluted as an effective and meaningful concept
- Power is shifting upwards to some intergovernmental organizations, downwards to sub national governments and sideways to market forces
- A growing no-man's land (oceans, space and the Earth’s core), escapes national sovereignty. This also applies to virtual space such as the Internet.

3- War is still a Legitimate Method of Conflict Resolution

- Absence of supranational authorities with military enforcement capabilities means that in some cases the international community still accepts war as a legitimate method of conflict resolution

- This includes self defense and UN sanctioned military interventions
- Also includes interventions by self-mandated “peace-keepers” and “peace-makers” (NATO, the US, ad hoc “coalitions of the willing” etc.)

4 – Emergence of Non-State Actors

- Private corporations are more powerful than most governments and end up assuming important social and political roles, even though they are not mandated to do so
- Other non-state actors (terrorist groups, sects, etc.) also reduce governments’ effectiveness
- All told, the non-state actors must be dealt with in any meaningful reform of the global system.

5 - Democratic Deficits

- The 191 sovereign states of the world are not all democracies. In fact, a large number are autocracies
- The IGOs are not directly accountable and there is a perceived democratic deficit in global governance
- The combination of the two facts above reduces the legitimacy of global and national political institutions.

6 - An Inconsistent Multilateral System

The Multilateral System designed to meet global challenges suffers from a number of weaknesses such as:

- Redundancies; many IGOs have similar if not identical mandates
- Gaps; many cross-cutting issues are not dealt with adequately by existing IGOs
- There is an asymmetry between the “strong IGOs” which deal with economic matters (IMF, World Bank etc.) and the “weak IGOs” dealing with health, environmental or social issues.

- There is no integrating IGO which can collect the work of the others. The UN General Assembly could be such a candidate, but is itself opposed by many critics
- The IGOs do not possess true enforcement capabilities.

5 - QUESTIONS TO THE ROUNDTABLE

SUGGESTED QUESTIONS FOR THE PANEL

- 1 - What are the most important structural weaknesses of the present Multilateral System?**
- 2 - Have there been any positive recent developments in 2004 and 2005 to deal with these weaknesses? If so, what are they?**
- 3 - Given the answers to the questions above what are the realistic targets for positive change in the next 5 years?**
- 4 - How can the New School of Athens help in achieving these targets in the next 5 years?**