

Introduction

Background

- 1.1 In its 2001 report entitled *Australia's Role in United Nations Reform*, the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) recognised that elements of the United Nations (UN) require reform:

The need for reform of the United Nations is widely accepted. The organisation has been in existence for over 50 years. In that time, the world has changed significantly: the Cold War strategic influences have declined, membership of the UN has increased almost four-fold; and the expectations of what the UN might do have grown. Many of the changes that have affected the UN have been random, with systems and elements of the organisation growing like topsy and financial support for the activities largely remaining static.¹

The [UN] is an organisation in need of a new focus and new structures, greater efficiency and accountability and greater support from the more powerful states in the world.²

- 1.2 Chapter 7 of the JSCFADT's report focused specifically on human rights and the need to redress long-standing problems associated with the UN's human rights machinery, including:

1 JSCFADT, *Australia's Role in United Nations Reform*, June 2001, Commonwealth Parliament of Australia, Canberra, p.177

2 JSCFADT, *Australia's Role in United Nations Reform*, June 2001, Commonwealth Parliament of Australia, Canberra, p. xxi

- block voting and obstruction by powerful states preventing effective action against serious violations of human rights at the Commission on Human Rights (the Commission);
 - weaknesses in the human rights treaty body system, namely a backlog in reporting and inconsistency and overlap between treaties; and
 - insufficient personnel and financial support for the Office of the High Commissioner for Human Rights (OHCHR).³
- 1.3 One of the recommendations in the JSCFADT's report was that, to encourage greater community awareness and understanding of the United Nations, as part of a review of the annual report of the Department of Foreign Affairs, it should conduct public hearings each year on Australia's activities at the United Nations. The JSCFADT suggested that particular reference should be made, inter-alia, to:
- the progress of reform within the structural, administrative and fiscal systems of the UN;⁴
- 1.4 Subsequent to that recommendation, in July 2002, the JSCFADT conducted its first annual review of Australia's activities at the UN.⁵

Referral

- 1.5 On 12 May 2005, the Human Rights Sub-Committee (hereafter referred to as the Committee) resolved to examine the 2003-2004 annual report of the Department of Foreign Affairs (DFAT), with specific reference to the issues surrounding reform of the United Nations Commission on Human Rights.
- 1.6 In its annual report, the Department noted its efforts to secure Australia's election as President of the CHR for 2004 – the first time that Australia has held this position -and made a number of observations about the Commission, its nature and actions during that time.⁶
- 1.7 The annual report indicated that Australia supports resolutions at the Commission in support of good governance, treaty-body reform and

3 JSCFADT, *Australia's Role in United Nations Reform*, June 2001, Commonwealth Parliament of Australia, Canberra, pp.133-154

4 See Recommendation 23 in JSCFADT, *Australia's Role in United Nations Reform*, June 2001, Commonwealth Parliament of Australia, Canberra, p. 232

5 See the JSCFADT website for a copy of the transcript, http://www.aph.gov.au/house/committee/jfadt/u_nations/40thIndex.htm

6 DFAT Annual Report 2003-2004, p. 93

national human rights institutions. Australia also works to raise the profile of the interests of Pacific Island Countries.⁷

Scope of Inquiry

- 1.8 The Committee's decision to conduct an inquiry into reform of the Commission was timely in light of the upcoming summit of Heads of State and Government at the United Nations in New York from 14-16 September 2005, where a wide range of reforms to UN bodies will be discussed in the context of proposals set out in the UN Secretary-General's March 2005 report entitled *In Larger Freedom*.⁸
- 1.9 *In Larger Freedom* is the Secretary-General's blueprint reform agenda for discussion by nearly 180 member states ahead of and at the world summit. The report is divided into five clusters and contains proposals from expanding the membership of the Security Council to establishing a Peacebuilding Commission. There are a number of recommendations that relate to reform of the UN's human rights machinery. One of the more significant reform agenda items presented in cluster five is the proposal to transform the Commission on Human Rights into a Human Rights Council. That proposal is outlined in Addendum 1 of the report.⁹
- 1.10 In his address to this year's session of the 61st Commission in April, the UN Secretary-General noted that the Commission in its present form has some notable strengths, including its country resolutions, special procedures and close engagement with civil society groups. He went on to say that, at the same time, the Commission's ability to perform its tasks has been overtaken by new needs. In his view, the Commission has been undermined by the politicisation of its sessions and the selectivity of its work, to the point where its declining credibility has cast a shadow on the reputation of the UN system as a whole.¹⁰
- 1.11 The Secretary-General believes that a Human Rights Council would offer a fresh start. He proposes that a Council be afforded similar status to the Security Council and Economic and Social Council (ECOSOC), be a smaller standing body, able to meet when necessary
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7 DFAT Annual Report 2003-2004, p. 93

8 The full report is available from the UN website, <http://www.un.org/largerfreedom/>

9 Addendum 1, Human Rights Council: Explanatory Note by the Secretary-General, *In Larger Freedom*, 23 May 2005, <http://daccess-ods.un.org/TMP/4995400.html>

10 UN Secretary-General's Opening Address to 61st Commission on Human Rights, 7 April 2005, <http://www.un.org/apps/sg/sgstats.asp?nid=862>

rather than for only six weeks a year as it does at present, and that it should have an explicitly defined function as a chamber of peer review to evaluate the fulfilment by all states of their human rights obligations. The Secretary-General also suggests that the new Human Rights Council be made accountable and representative through having its members elected by a two-thirds majority of the General-Assembly. Further, those elected should have a solid record of commitment to the highest human rights standards.¹¹

- 1.12 Notwithstanding the need for member states to refine the details of how the Council will operate, the Secretary-General hopes that they will agree in principle to the establishment of a Human Rights Council at the September summit. The revised draft outcome document of the summit which was submitted to the General Assembly on 5 August 2005 sets out the proposed mandate, size and composition of the new Human Rights Council.¹²
- 1.13 In the post-summit phase the Secretary-General anticipates that member states will discuss in greater detail matters such as the size, composition and actual establishment of the Council. Member states will need to decide whether to keep, amend or discard the Commission's existing functions, procedures and working groups. The Secretary-General emphasises that the special procedures and civil society engagement are two aspects of the Commission which should be preserved and strengthened.¹³
- 1.14 The Secretary-General also notes that there are a number of other important issues to consider in relation to the Human Rights Council proposal, particularly the role it will play in relation to the OHCHR, treaty monitoring bodies, the Security Council, ECOSOC, Third Committee of the General Assembly, and the proposed new Peacebuilding Commission.¹⁴

11 UN Secretary-General's Opening Address to 61st Commission on Human Rights, 7 April 2005, <http://www.un.org/apps/sg/sgstats.asp?nid=862>

12 Revised draft outcome document of the High-level Plenary Meeting of the General Assembly of September http://www.un.org/ga/59/hlpn_rev.2.pdf, pp. 32 - 33

13 UN Secretary-General's Opening Address to 61st Commission on Human Rights, 7 April 2005, <http://www.un.org/apps/sg/sgstats.asp?nid=862>

14 Addendum 1, Human Rights Council: Explanatory Note by the Secretary-General, In Larger Freedom, 23 May 2005, <http://daccess-ods.un.org/TMP/4995400.html>, p. 6

Inquiry Process

Roundtable Public Hearing

- 1.15 For the inquiry, the Committee decided to invite a wide range of witnesses from the Australian community to give evidence at and participate in a half-day roundtable discussion with committee members at Parliament House. At the hearing, the Chair described the benefits of conducting committee hearings in a roundtable format.

I think it is much more constructive, for a discussion such as this in particular, than the formal taking of evidence back and forth across the table with separate witnesses and with very little interaction.¹⁵

- 1.16 The Chair acknowledged that the idea for this roundtable had originated in another roundtable held in Geneva in April this year convened by Australian Ambassador Mike Smith, during the 61st Commission which the Chair, members of the permanent mission in Geneva, and other Australian participants had attended. The Chair said that those discussions were fruitful and it was clear at the Geneva event that there was an opportunity to pursue talks further in Australia.¹⁶
- 1.17 On this occasion the Committee did not call for written submissions. However, two submissions were received and these are available on the Committee's website.¹⁷
- 1.18 The Committee advertised the public roundtable hearing in *The Australian* on 10 August 2005. The Committee also placed submissions and other information relating to the inquiry, including details of the hearing, on its website in order to encourage further public participation.

Program and Participants

- 1.19 The Committee invited a number of organisations and individuals to participate in the roundtable which was held on 12 August 2005 at Parliament House in Canberra. Those able to attend included United Nations representatives, non-government organisations and legal and human rights experts. A representative from the Department of Foreign Affairs was also present in an observer capacity. Appendix A contains a copy of the program and list of participants.
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15 Official Transcript of Evidence, p. 36

16 Official Transcript of Evidence, p. 36

17 See the JSCFADT website for copies of the submissions,
<http://www.apf.gov.au/house/committee/jfadt/chr/subs.htm>

Hearing Transcript

- 1.20 The public hearing was webcast and broadcast internally on the House Monitoring System. The transcript is available from the Committee's website.¹⁸

18 See the JSCFADT website for a copy of the transcript,
<http://www.aph.gov.au/house/committee/jfadt/chr/index.htm>