

ARTICLE 98

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TEXT OF ARTICLE 98

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

INTRODUCTORY NOTE

1. The structure of the present study of Article 98 follows that of the previous study of this Article in the Repertory. All the former headings have been retained because they are indicative of the range and scope of the functions assumed by the Secretary-General under Article 98 or in his capacity as "the chief administrative officer of the Organization" under Article 97.

2. No further information has been included under the following headings in the Analytical Summary of Practice either because the Secretary-General has continued to discharge his responsibilities in regard to these matters or because no further action has been taken in the period under review: A. 1. a: Drawing up of the agenda; A. 1. c: Examination of credentials; A. 3. a: Calendar of meetings; and A. 4. a: Functions of the Secretary General set forth in the agreements with the specialized agencies; E. 2. b: Arbitration proceedings; E. 3. b: Headquarters regulations; E. 4. a: Functions of the Secretary-General with regard to privileges and immunities; E. 4. b: Representation by the Secretary-General at conferences and meetings of other agencies; and E. 4. c: Authorization by the Secretary-General to use the United Nations emblem, flag and insignia.

3. The present study of Article 98 does not attempt to give an exhaustive catalogue of every function that has been conferred on the Secretary-General in the period under review; but, instead, an account is given of certain significant developments relating to the duties of the Secretary-General which have taken place since the previous study was written.

4. The practice relating to the Secretary-General's duties concerning the organization and administration of the Secretariat will be found in this Supplement under Article 101. Functions conferred on the Secretary-General under other Articles of the Charter are only referred to by way of cross reference to the relevant studies elsewhere in this Supplement.

I. GENERAL SURVEY

A. The scope of the functions of the Secretary-General

5. Developments have taken place in the period under review with regard to all of the main categories of functions of the Secretary-General which were dealt with in the previous study of Article 98. That study adopted a five-fold classification of the Secretary-General's responsibilities: general administrative and executive functions; technical functions; financial functions; political functions; and representational functions. During the period under review the growth of United Nations activities, particularly economic and social, accounted partly for an expansion of the Secretary-General's functions. In the field of co-ordination the duties of the Secretary-General have increased with the rationalization and consolidation of former procedures, and have extended on occasion beyond the sphere of the United Nations and the specialized agencies to consultations with other international organizations in an effort to co-ordinate international activities as a whole. The Secretary-General now has a major part to play, as Chairman of a sub-committee of the Administrative Committee on Co-ordination (ACC), in co-ordinating the various activities of the United Nations and the specialized agencies in connexion with peaceful uses of atomic energy. In the technical field the Secretary-General has assumed new responsibilities with the expansion of the technical assistance programmes. It is in the political functions of the Secretary-General, however, that this evolution has been most noticeable. Section D of the Analytical Summary of Practice gives an account of certain missions undertaken by the Secretary-General at the request of the Security Council or of the General Assembly, as well as a summary of practice relating to the powers inherent in the office of the Secretary-General which enables the Secretary-General to act on occasion as "a mediator and as an informal adviser of many Governments".

B. Summary of the main categories of functions of the Secretary-General

6. A comprehensive summary of the main categories of functions of the Secretary-General was included in the previous study of Article 98. As the major developments in

the period under review have taken place within the framework of this summary it is considered unnecessary to repeat it here.

II. ANALYTICAL SUMMARY OF PRACTICE

A. General administrative and executive functions of the Secretary-General

1. *Functions of the Secretary-General in connexion with meetings of United Nations organs* 1/

** a. DRAWING UP OF THE AGENDA

b. CONVENING OF SESSIONS AND MEETINGS

7. In addition to the responsibilities with respect to the convening of sessions and meetings of the principal organs of the United Nations which the Secretary-General has under their rules of procedure 2/ he is also frequently requested to convene the various committees and working groups established from time to time by resolution of those organs. To take a few examples from the period under review, the Secretary-General has been requested, in consultation with the Governments concerned: (a) to appoint a time for convening a Salary Review Committee established by the General Assembly; 3/ (b) to convene the Committee set up by the Economic and Social Council to draft a supplementary convention on slavery; 4/ and (c) to reconvene the Committee of Experts on the Transportation of Dangerous Goods. 5/ Resolutions of the Economic and Social Council frequently request the Secretary-General to convene inter-regional trade consultations, 6/ or meetings of experts, 7/ to consider economic, social and humanitarian questions.

8. In an amendment to the Statute of the International Law Commission adopted by the General Assembly at its tenth session, it was provided 8/ that the Commission should

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- 1/ In the previous study of Article 98, frequent reference was made to the rules of procedure of United Nations organs. Since that study was written the rules of procedure of the General Assembly (United Nations Publication, Sales No.: 1956.I.8) and of the Trusteeship Council (United Nations Publication, Sales No.: 1956.I.15) have been reissued in booklet form, containing recent amendments. However, the references in the previous study to the rules of procedure of these two organs hold good for the reissued texts, save in as far as the contrary is indicated in this study.
- 2/ See in the Repertory, under Article 98, paras. 28-30. Reference was made in the previous study of Article 98 to the procedure followed when the Secretary-General on one occasion proposed a postponement of the opening date of a regular session of the General Assembly. In the period under review it was decided to postpone, at the request of certain Member States, the opening date of the eleventh regular session of the Assembly. The procedure followed is described under Article 20 in this Supplement.
- 3/ G A resolution 975 (X).
- 4/ E S C resolution 564 (XIX).
- 5/ E S C resolution 567 E (XIX).
- 6/ See, for example, E S C resolution 579 B (XX).
- 7/ See, for example, E S C resolutions 585 E and F (XX).
- 8/ G A resolution 984 (X).

sit at the European Office of the United Nations in Geneva, with the right to hold meetings at other places after consultation with the Secretary-General. At the same session the Assembly decided 9/ that the Secretary-General should, on the request of the Negotiating Committee for Extra-Budgetary Funds, arrange an appropriate meeting or meetings of Member and non-member States at which the pledges of Members and non-members might be made known.

**** c. EXAMINATION OF CREDENTIALS**

d. PROVISION OF STAFF AND SERVICES

9. Normally the Secretary-General provides staff and services at the request, 10/ or in accordance with the rules of procedure, of United Nations organs but he has, on occasion, provided facilities for meetings other than those directly sponsored by a United Nations organ. For example, he made available the European Office of the United Nations for the holding of the Geneva Conference of the Heads of Governments of the Four Powers [France, United Kingdom, United States and U.S.S.R.] which met in the Palais des Nations from 18 to 23 July 1955, the Conference having provided its own secretariat. Likewise, at the invitation of the Secretary-General, the Conference on the Statute of the Atomic Energy Agency was held at United Nations Headquarters in New York from 20 September to 26 October 1956. Staff and services were provided by the Secretary-General, who further agreed to act as Secretary-General of the Conference; provision was made in the rules of procedure of the Conference for equal apportionment of costs between the participating Governments.

2. Transmission of communications

10. The duties of the Secretary-General regarding the transmission of communications remain as described in the previous study of Article 98. Some examples, however, of the manner in which the Secretary-General gives effect to resolutions of United Nations organs requesting him to circulate various documents will be found in the following paragraph. 11/

11. During a debate in the Third Committee, at the ninth session of the General Assembly, on the subject of the draft International Covenants on Human Rights, the question arose of the meaning to be attached to the words "non-governmental organizations" contained in a draft resolution, the subject of several amendments, 12/

9/ G A resolution 958 A (X).

10/ For some examples of requests of this nature in the period under review, see G A resolutions 810 B (IX), 822 (IX), 889 B (IX), 912 I (X), 913 (X), 923 (X), 944 I (X), 975 (X); and E S C resolutions 572 (XIX) and 586 C (XX). These requests have covered such matters as the provision of staff and services for the United Nations Conference on the Peaceful Uses of Atomic Energy (G A resolution 810 B (IX)) and for the United Nations Plebiscite Commissioner in Togoland under British administration (G A resolution 944 I (X)). On one occasion (G A resolution 900 (IX)), the Secretary-General was requested to provide staff and facilities for the International Technical Conference on the Conservation of the Living Resources of the Sea, it being understood that the technical services of the Food and Agriculture Organization should be utilized as fully as practicable in the arrangements for the Conference.

11/ For an opinion given by the Secretary-General on the phrase "within the framework of the United Nations" contained in a draft resolution concerning the relationship of a proposed International Atomic Energy Agency and the United Nations, see in this Supplement under Article 57.

12/ The various texts are set out in G A (IX), annexes, a.1. 58, pp. 3 and 4.

which extended an invitation to such organizations to stimulate public interest in the draft Covenants. In reply to a query the representative of the Secretary-General stated 13/ that it was the practice of the United Nations in such cases to specify that the non-governmental organizations to be consulted were those to which the Economic and Social Council had granted consultative status; otherwise juridical and constitutional difficulties would arise if the Secretariat were asked to approach other non-governmental organizations. When some delegates expressed the view that the invitation should be directed to all non-governmental institutions, whether or not they had been granted consultative status by the Council, the representative of the Secretary-General stated 14/ that all the Secretary-General could say immediately was that when the Committee had adopted a resolution indicating what it desired, he would study all the elements of the situation as they then presented themselves in the light of the United Nations Charter and act accordingly. A similar question arose in a debate in the First Committee at the tenth session of the General Assembly. In a draft resolution 15/ before the Committee the Secretary-General was requested, in consultation with an advisory committee, to study the problem of the relationship of the proposed international atomic energy agency to the United Nations, and to transmit the results of the study to the "Governments concerned" - these being the Governments sponsoring the proposed agency. A representative asked whether the results of the study would be distributed only to the "Governments concerned", or to all Members of the United Nations. The Secretary-General replied that: 16/

"it was his understanding that a document prepared by him under a mandate from the General Assembly would automatically be an official United Nations document unless there was a special provision that it was to be something else. He did not regard the proposed mandate as containing such a qualification. The request to submit the document to the group of Governments concerned would be reflected in two ways: first, it would be addressed to the Governments concerned; secondly, it would be presented for debate and consideration within that group."

3. Integration of activities

12. As in the previous study, certain of the responsibilities of the Secretary-General regarding integration of the activities of all the organs of the United Nations are summarized in the paragraphs below. These paragraphs are not exhaustive, but give a few examples of developments in this field during the period under review.

**** a. CALENDAR OF MEETINGS**

b. PLANNING OF WORK PROGRAMMES AND PRIORITIES

13. The Secretary-General reviewed the part to be played by the Secretariat in the work of the United Nations in the introduction to his annual report to the General Assembly at its ninth session. He stated: 17/

13/ G A (IX), 3rd Com., 579th mtg., para. 27.

14/ G A (IX), 3rd Com., 582nd mtg., paras. 13 and 14.

15/ This became G A resolution 912 (X). The paragraph in question here is paragraph 5 of part II of that resolution.

16/ G A (X), 1st Com., 771st mtg., para. 63.

17/ G A (IX), Suppl. No. 1 (A/2663), pp. xiv-xv.

"Final responsibility for deciding on programmes and priorities - on what the Secretariat should do or should not do - rests, of course, with Governments of Members acting through the appropriate deliberative organs. The Secretary-General, however, has a clear duty to offer advice and to express opinions when he deems it helpful and pertinent to do so.

"In this belief, I ventured to put before the Economic and Social Council 18 certain more specific lines of action as indicative of the manner in which a reorientation of the work of the Secretariat might usefully proceed. I informed the Council that I had in mind the following objectives: a shift of emphasis from certain of the existing services and clearing-house activities; the establishment of a more limited framework for the prosecution of certain work requested of the Secretariat, in order to bring that work within the proper sphere of the Secretariat's competence; the reconsideration of certain low-priority projects by the organs concerned; the recognition of the full responsibility of specialized agencies for particular tasks clearly within their mandate; the assumption, under the Secretariat's general guidance, of certain research, training and other tasks by universities and other private institutions; and a reduction in the number and length of documents, including the discontinuation, or reduction in the frequency, of certain periodical publications." 19

14. The very nature and complexity of the work programmes of the United Nations require much preliminary work and many of the details to be entrusted to the discretion of the Secretary-General, subject to broad review by the appropriate deliberative organs, and in particular the Economic and Social Council. In carrying out this review the Council has continued to request the assistance of the Secretary-General regarding planning of work in specific cases. 20 To take some examples in the period under review he has been requested:

a. To submit to the Council a survey of work being currently undertaken under the aegis of the United Nations, including the specialized agencies, in matters relating to industrial development and the improvement of industrial productivity; and in the light of this survey and other documents to prepare and submit to the Council a programme of work planned with particular reference to the question of accelerating industrialization and raising productivity in under-developed countries and of utilizing available forms of international assistance as fully and efficiently as possible for this end, taking into account at the same time the important implications of international trade on that question; 21

18/ At its eighteenth session. See in the Repertory under Article 98, para. 40.

19/ In the Fifth Committee, during the ninth session of the General Assembly, one representative (G A (IX), 5th Com., 437th mtg., paras. 16-18) commented on the initiative taken by the Secretary-General in submitting such proposals on work programmes and priorities to the Economic and Social Council; he said that his Government welcomed that type of leadership, and had supported the Secretary-General in the matter. He stated, further, that "The Secretariat of the United Nations was one of the principal organs established by the Charter, and the Secretary-General, by virtue of Articles 97, 98 and 99 and various resolutions of the General Assembly and of the Councils, had wide responsibilities, extending beyond the purely administrative area, in the achievement of the objectives of the United Nations. The interpretation of those responsibilities depended upon the circumstances of the times, the nature of the problems presented, and the Secretary-General's own concepts."

20/ For programme co-ordination with specialized agencies, see paras. 19-21 below.

21/ E S C resolution 560 (XIX).

b. To prepare an analysis, in consultation with the United Nations Educational, Scientific and Cultural Organization [UNESCO], on the basis of information received from Governments, of the elements necessary for the formulation by the Council of a programme of concrete action and measures on the international plane which could be undertaken for the development of information enterprises of under-developed countries; 22/

c. To continue to provide over-all planning and co-ordination in carrying forward work on levels of living through arrangements which will ensure the maximum participation of interested specialized agencies; 23/

d. To prepare, for the twenty-second session of the Council, a report with particular reference to any methods used and any consultations held relating to the advance planning of programmes and projects. 24/

15. As regards the establishment of priorities in the period under review the representative of the Secretary-General in the Economic and Social Council commented on the priorities proposed by Commissions of the Council, 25/ and made proposals regarding changes he considered desirable in priorities already established. In a statement 26/ made to the Council at its twentieth session the Under-Secretary for Economic and Social Affairs outlined proposals for suspending certain publications, and modifying others, to ensure priority for more urgent questions and better use of available funds. Most of these proposals were endorsed by the Council. 27/ In his introductory remarks to the Council at its twenty-first session, the Under-Secretary for Economic and Social Affairs declared that: 28/

"The question of priorities could never be settled once and for all, and the Council must continuously re-assess its own agenda and the workload of its Secretariat, the staff of which could not be expanded beyond certain limits. There were certain minimum needs which the Department of Economic and Social Affairs had to meet: firstly, information, i.e. the collection and analysis of data on which to base decisions for international action, secondly, the preparation and servicing of the General Assembly, the Council and various international conferences; lastly, the advisory functions connected with the technical assistance programme. In addition to those minimum requirements, great further possibilities for new work were constantly opening up."

The Under-Secretary then reviewed the agenda for the session, drawing the attention of the Council to what he considered to be important questions.

C. INTEGRATION OF ACTIVITIES RELATING TO OPERATIONAL PROGRAMMES

16. The functions of the Secretary-General in co-ordinating the various operational programmes of the United Nations and specialized agencies are referred to in

22/ E S C resolution 574 D (XIX).

23/ E S C resolution 585 B (XX).

24/ E S C resolution 590 A (XX).

25/ See, for example, E S C resolution 567 F (XIX); and E S C (XIX), annexes, a.i. 11, E/2744.

26/ E S C (XX), 864th mtg., paras. 31-47; and E S C (XX), annexes, a.i. 14, p. 2, E/2791.

27/ E S C resolution 590 B (XX).

28/ E S C (XXI), 900th mtg., para. 39.

paragraphs 19-21 below. Besides, however, integration of activities on this plane, the Secretary-General is on occasion requested, more frequently in the resolutions of the Economic and Social Council, to ensure integration of activities within the United Nations itself, and its subsidiary organs and agencies. In the period under review he was requested to indicate which parts of the programme for economic development of under-developed countries might appropriately be undertaken by the regional economic commissions; 29/ and was also requested to carry out certain functions in co-operation with the regional economic commissions concerning United Nations social affairs programmes. 30/

17. The responsibilities of the Secretary-General, as chairman of the Administrative Committee on Co-ordination (ACC), with regard to the policies and programmes of the Technical Assistance Board (TAB), and the integration of activities under the Expanded Programme of Technical Assistance, were discussed by the Administrative Committee on Co-ordination at its twentieth session. In its eighteenth report to the Economic and Social Council the Committee proposed to make in future a general policy review every year both of the prospective work under the expanded programme and of comparable activities under the regular budgets. Having stated that it would also endorse the annual report of TAB to the Technical Assistance Committee (TAC), the Committee made the following observation: 31/

"With TAB thus brought more closely within the framework of ACC, the relationship of the Executive Chairman of TAB to ACC and to its Chairman, the Secretary-General of the United Nations, can be more readily defined. While the principle that the Executive Chairman is responsible to the members of ACC concerned should remain unchanged, it is essential that he should, in the intervals between meetings, be able to consult for guidance and be responsible to someone who is in a position to act on behalf of ACC as a whole. The most practical arrangement is for the Secretary-General to discharge this responsibility, and it should therefore be made clear that the Executive Chairman, during the intervals between sessions, should refer to the Secretary-General in his capacity as Chairman of ACC, for the purpose of enabling the Secretary-General to ensure that TAB's policy and action follows the directives of ACC."

d. CO-ORDINATION OF SERVICES TO UNITED NATIONS ORGANS

18. As pointed out in the previous study of Article 98, the Secretary-General's responsibilities for co-ordinating the provision of the various administrative services required for the functioning of United Nations organs is largely left to his discretion within the budgetary limits set by the General Assembly, and is rarely the subject of specific instructions. In his annual reports to the General Assembly the Secretary-General now regularly includes, in the chapter on administrative and budgetary questions, a statement on the steps taken each year, pursuant to resolution 593 (VI) of the Assembly, to control documentation and enforce strict editorial policies in order to eliminate unnecessary and repetitious matter. At its ninth session the Assembly authorized 32/ the Secretary-General to make arrangements for translating into Arabic some of the official documents of the General Assembly, its committees and sub-committees, together with reports of other United Nations organs dealing with either specific or general problems of interest to the areas where Arabic is spoken. At its

29/ E S C resolution 560 (XIX).

30/ E S C resolution 585 C (XX).

31/ E S C (XX), annexes, a.i. 4, E/2728, para. 14.

32/ G A resolution 878 (IX).

tenth session the Assembly 33/ requested the Secretary-General to arrange as soon as possible for the printing of certain of the documents relating to the sessions of the International Law Commission, the Commission being invited to express its views for the guidance of the Secretary-General with respect to the selection and editing of the documents to be printed. At the same session the General Assembly requested 34/ the Secretary-General to submit a report to the next session on methods of reducing the delay in the publication of treaties and international agreements and the expenditure incurred, the report to contain possible arrangements with the specialized agencies and other international organizations, including the Contracting Parties to the General Agreement on Tariffs and Trade, whereby duplication in the printing and publication of treaties and international agreements could be avoided while the needs both of the United Nations and of the other organizations concerned were met.

*4. Co-ordination with specialized agencies and
other inter-governmental organizations*

** a. FUNCTIONS OF THE SECRETARY-GENERAL SET FORTH IN THE
AGREEMENTS WITH THE SPECIALIZED AGENCIES 35/

b. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO
PROGRAMME CO-ORDINATION

19. At the tenth session of the General Assembly, pursuant to a request 36/ made in the First Committee in connexion with a proposal for assistance by the Secretary-General to a technical committee to be set up to co-ordinate and disseminate information concerning atomic radiation, the Secretary-General submitted a paper 37/ outlining his duties with regard to programme co-ordination as follows:

"A rather special position may be attributed to the United Nations Secretariat, not because of the possibility that it would be called upon to provide the committee with the technical help it may need, but because it occupies a vantage point with regard to a full and co-ordinated utilization of the resources of the entities comprising the United Nations family. As Chairman of the Administrative Committee on Co-ordination - of which the executive heads of all the specialized agencies are members - the Secretary-General has a special responsibility for programme co-ordination and for transmitting to the specialized agencies the viewpoints of Governments on the general development of United Nations activities. Likewise, the Secretary-General has, in the same capacity, a duty to represent the viewpoints of the various specialized agencies and the United Nations, when joint interests are involved. This position has recently found a new expression in the decision taken by the ACC to set up a sub-committee for questions arising for the specialized agencies and the United Nations in the field of atomic energy. The Secretary-General, as Chairman of this sub-committee, has a specific

33/ G A resolution 987 (X).

34/ G A resolution 966 (X).

35/ In the "Study of the question on the relationship of the International Atomic Energy Agency to the United Nations" prepared by the Secretary-General it was suggested that the Secretary-General "should report to the United Nations as appropriate on the development of the relations and on the common activities of the United Nations and the Agency" (A/3122).

36/ G A (X), 1st Com., 775th mtg., para. 2.

37/ G A (X), annexes, a.i. 59, A/INF/67, paras. 9 and 10.

duty to serve as a link with organizations in the United Nations family on questions which may arise concerning the projected atomic energy agency as well as on those concerning related fields, such as the one now under discussion.

"In these circumstances, the simplest way in which to achieve maximum effectiveness in the desirable collaboration between the proposed committee and the entire United Nations machinery on which the committee will need to rely, seems to be the one naturally growing out of the position of the Secretary-General as chief administrative officer of the United Nations and as Chairman of the ACC Atomic Sub-Committee. This position enables him to serve as intermediary between the proposed new committee and the United Nations system of organizations. As a spokesman for those organizations he could, in any event, participate in the work of the committee on the basis of rule 113 of the rules of procedure of the General Assembly. If the Secretary-General is requested, by a decision of the General Assembly, to assist the committee in its operations, his statutory right under this rule is developed into an obligation, making the Secretary-General serve as a link in both directions."

20. The important part to be played by the Secretary-General as Chairman of ACC with regard to programme co-ordination was also stressed in the debates 38/ in the Economic and Social Council at its twentieth session, when it undertook a general review of the development and co-ordination of the economic, social and human rights programmes and activities of the United Nations and the specialized agencies as a whole. In introducing the debate on this general review pursuant to the request of the Council, 39/ with both a written and oral statement, 40/ the Secretary-General took the opportunity of focusing the attention of the Council on the most urgent problems in the field of co-ordination by stressing the trend towards greater programme integration. In a statement made at the end of the debate, the Secretary-General pointed out 41/ that responsibilities with regard to certain aspects of co-ordination rested with the United Nations Secretariat outside the sphere of formal consultation within ACC, and that some questions - more particularly advance planning of programmes - were better dealt with by freer preliminary discussions between the programme officers of the United Nations and the specialized agencies concerned in any particular project. 42/ A resolution adopted 43/ by the Council noted with appreciation the efforts of ACC, under the chairmanship of the Secretary-General to foster greater co-ordination of the programmes and operations of the United Nations and the specialized agencies; the resolution further stressed the importance of early and close consultation among the United Nations and the specialized agencies in the advance planning of programmes of interest to more than one of these bodies, and requested the Secretary-General to prepare a report with particular reference to any methods used and any consultations held relating to the advance planning of programmes and projects.

21. Apart from special functions entrusted to the Secretary-General in resolutions of the General Assembly or the Economic and Social Council specifically concerned with questions of co-ordination. 44/ these organs frequently requested the Secretary-General

38/ E S C (XX), 879th to 882nd mtgs.

39/ E S C resolution 557 B, II (XVII).

40/ See, for example, E S C (XX), annexes, a.i. 4, E/2769.

41/ E S C (XX), 882nd mtg., para. 32.

42/ For an account of some of these consultations, see E S C (XXII), 942nd mtg., paras. 8 and 9.

43/ E S C resolution 590 A (XX).

44/ See also in this Supplement, under Article 58.

to collaborate with interested specialized agencies in the preparation of work and the carrying out of operational programmes. A few examples from the period under review follow. The Secretary-General was requested:

a. To consider, in collaboration with the Food and Agriculture Organization and the other specialized agencies concerned, the best methods for the further implementation of Economic and Social Council resolution 512 C (XVII) concerning land reform; 45/

b. To take steps, in close collaboration with the Director-General of the United Nations Educational, Scientific and Cultural Organization, to put into operation a programme to promote freedom of information by providing such services as experts, fellowships, and seminars; 46/

c. To continue to assist Governments, especially of the under-developed countries, in co-operation with the specialized agencies and, as appropriate, with the regional economic commissions, in developing and carrying out projects in the field of community development; 47/

d. To convene, in joint sponsorship with the International Labour Office, and in co-operation with the other specialized agencies concerned, a working group of experts highly qualified in the field of the maintenance and improvement of family standards of living to study the technical questions involved in this problem; 48/

e. To consult, through the Administrative Committee on Co-ordination or such other channels as may be available, with the appropriate specialized agencies on the planning and implementation of a programme of work designed to accelerate the industrialization and to raise the productivity of less developed countries. 49/

Even in cases where the Secretary-General was not himself requested to undertake any comprehensive system of work he performed a co-ordinating function by acting as the channel of communication between the United Nations and the specialized agencies. For example, at its ninth session the General Assembly requested 50/ the Secretary-General to invite the Food and Agriculture Organization to prepare a factual and comprehensive report on what had been done and was being done in connexion with the establishment of a world food reserve. Another example is provided by a resolution adopted by the Economic and Social Council at its twenty-second session in which the Secretary-General was requested: 51/

"In order that the Council shall exercise its co-ordinating functions within the framework of the United Nations in the field of commodity problems, to transmit to the Commission on International Commodity Trade, to the Interim Co-ordinating Committee for International Commodity Arrangements, and to the Food and Agriculture Organization of the United Nations the records of the discussions on international commodity problems held during the twenty-second session of the Council under item 6 of its agenda."

45/ G A resolution 826 (IX).

46/ E S C resolution 574 A (XIX).

47/ E S C resolution 585 C (XX).

48/ E S C resolution 585 F (XX).

49/ E S C resolution 597 A (XXI).

50/ G A resolution 827 (IX).

51/ E S C resolution 620 (XXII).

22. Problems of co-ordination with inter-governmental organizations outside the framework of the United Nations and the Secretary-General's functions in this sphere were the subject of attention in the period under review. In his annual report to the General Assembly at its ninth session the Secretary-General said: 52/

"While these problems call for decisions by the Governments concerned, it has been felt that much could be done at the secretariat level to develop co-operation in fields of common interest and to avoid duplication of effort and overlapping. With this end in view, the Secretary-General extended invitations to the executive heads of the Council of Europe, the Organization for European Economic Co-operation and the European Coal and Steel Community for an informal meeting with the executive heads of the specialized agencies. The meeting took place during the eighteenth session of ACC at Geneva in May 1954, and an exchange of views took place on mutual problems of co-ordination, which will be helpful as a basis for further consultations at the secretariat level."

23. On occasion the Secretary-General had functions to discharge with regard to co-ordination of United Nations activities even on a national level. For example, in a resolution adopted 53/ at its twenty-second session, the Economic and Social Council drew attention to the urgent need for a co-ordinated policy in regard to the activities of the United Nations and the specialized agencies on a national level; and the Council requested the Secretary-General to invite Member States to submit information so that he might prepare and circulate a survey of the means and methods employed by the Governments of Member States for the purpose of co-ordinating their national policies in respect of the activities of the various organs, committees and agencies in the field of the economic and social activities of the United Nations family.

c. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO CO-ORDINATION
IN ADMINISTRATIVE AND FINANCIAL MATTERS

24. One part played by the Secretary-General in co-ordinating administrative and financial matters of common concern to the United Nations and the specialized agencies consisted in consultations with those agencies on such matters, often at the request of United Nations organs. For example, in the period under review, he was invited by the General Assembly to consult with the specialized agencies on procedures for judicial review of judgements of the Administrative Tribunal; 54/ and on the possibility of developing a common system of audit for the United Nations and the specialized agencies. 55/ Questions of administrative and financial concern were also discussed in the Administrative Committee on Co-ordination. 56/

*5. Functions of the Secretary-General with regard to the preparation
of work and implementation of decisions*

25. During the period under review, the Secretary-General continued to discharge responsibilities and functions in this area which, as indicated in the corresponding study in the Repertory, ranged from the circulation of documents to the preparation of

52/ G A (IX), Suppl. No. 1 (A/2663), p. 74.

53/ E S C resolution 630 A (XXII).

54/ G A resolution 888 B (IX).

55/ G A resolution 971 (X).

56/ For example, see E S C (XX), annexes, a.i. 4, p. 4, E/2728, part II, paras. 33-35. See also in this Supplement, under Article 17.

comprehensive reports and studies and the organization of major operational programmes. These duties are described under the other headings in the present study or elsewhere in this Supplement. 57/

6. Functions of the Secretary-General in connexion with international treaties, conventions and agreements

26. The Secretary-General stated in his annual report 58/ to the General Assembly at its eleventh session that the number of multilateral conventions in respect of which he exercised depositary and other functions had risen to 120. While the functions entrusted to the Secretary-General under these conventions continued to be those "pertaining to a Secretariat", which were summarized in the previous study, he was occasionally requested to undertake other responsibilities. For example, in a resolution attached to the Final Act of the Convention on the Recovery Abroad of Maintenance 59/ the Secretary-General was requested to prepare and circulate to the States entitled to become Parties to the Convention a list of those States whose laws provided for letters of request for obtaining further evidence.

27. The procedures followed in transferring to the Secretary-General of the United Nations certain functions formerly exercised by the Secretary-General of the League under conventions deposited with the latter were discussed in the previous study of Article 98. 60/ At its ninth session the General Assembly adopted a resolution 61/ regarding the International Convention concerning the Use of Broadcasting in the Cause of Peace 62/, which had originally been deposited with the Secretary-General of the League. In this resolution the Assembly stated that while the custodial functions mentioned in the Convention had already been assumed by the Secretary-General in accordance with General Assembly resolution 24 (I), full effect could only be given to the Convention if other powers and functions conferred thereby on the League of Nations were transferred, by agreement between the Parties, to the United Nations. To this end the Secretary-General was requested to prepare a draft protocol of transfer, also containing certain new articles. 63/

7. Functions of the Secretary-General in respect of the submission of an annual report

28. During the period under review the annual reports of the Secretary-General to the General Assembly on the work of the Organization, submitted pursuant to the provisions of the second sentence of Article 98, continued in the form previously described. The same chapter headings were retained in the annual reports, but in 1955, the period covered was changed to the interval 16 June of one year to 15 June of the following

57/ See under Articles 13, 17 (1), 30, 34, 55, 62 (1) and (3), 64, 66 (2), 73 and 102.

58/ G A (XI), Suppl. No. 1 (A/3137), p. 98.

59/ This Convention was concluded by a United Nations Conference convened under E S C resolution 572 (XIX), (United Nations Publication, Sales No.: 1956.V.4.)

60/ See in the Repertory under Article 98, para. 63.

61/ G A resolution 841 (IX).

62/ League of Nations, Treaty Series, vol. CLXXXVI, 1938, p. 301.

63/ For the text of the operative part of the General Assembly's resolution, and for an account of the discussions in the Third Committee, see para. 39 below.

year, instead of the beginning of July to the end of June. The reports submitted to the ninth 64/ and tenth 65/ sessions of the General Assembly contained the usual Introduction by the Secretary-General reviewing the role of the Organization in world affairs, but in the Foreword to his report 66/ to the General Assembly at its eleventh session the Secretary-General stated that he would circulate the Introduction as an addendum 67/ to the report at a date closer to the opening of the Assembly.

B. Technical functions of the Secretary-General

1. *Functions of the Secretary-General with regard to the collection of information and the undertaking of studies*

29. Reference was made 68/ in the previous study of Article 98 to the discussions in the Economic and Social Council at its eighteenth session, in which the Secretary-General took part, concerning ways and means of eliminating Secretariat studies and publications which were not essential to policy discussions in the Council and its commissions, and of lightening the tasks imposed on the Secretary-General with regard to the collection of information and the undertaking of studies. Subsequently, the Council adopted several resolutions in which it indicated that certain new work, or work previously undertaken by the Secretary-General, might be delegated to universities and research institutions. For example, at its twentieth session the Council invited 69/ the Secretary-General, the subsidiary bodies of the Council, and the specialized agencies to bear in mind that certain activities might better be undertaken by such bodies as universities, national, private or public institutions, or non-governmental organizations. At the previous session the Council adopted a resolution concerning population questions 70/ in which it outlined the procedures to be followed by the Secretary-General in obtaining outside assistance regarding studies and collection of information. The operative part of the resolution read:

"The Economic and Social Council,

".....

"Requests the Secretary-General:

"(a) To make an effort to obtain the co-operation of qualified scientific institutions in those parts of the programme of population studies in which such co-operation would be most useful, on the largest scale that is feasible in view of the available financial and other resources, with adequate safeguards to ensure the maintenance of a high standard of quality and objectivity in the work done by outside scientific institutions on behalf of the United Nations;

"(b) To give consideration, in selecting the scientific institutions to be invited to co-operate in portions of the programme, to the importance of an adequate distribution, particularly from a geographical point of view, and to

64/ G A (IX), Suppl. No. 1 (A/2663).

65/ G A (X), Suppl. No. 1 (A/2911).

66/ G A (XI), Suppl. No. 1 (A/3137).

67/ G A (XI), Suppl. No. 1 A (A/3137/Add.1).

68/ See in the Repertory, under Article 98, paras. 73-77.

69/ E S C resolution 590 A, I (XX).

70/ E S C resolution 571 B (XIX).

the need for expanding the capacity of existing scientific institutions in certain countries, notably in the less developed regions, for research on the problems of population;

"(c) To explore the possibility of establishing standing co-operative relations with qualified scientific institutions in each of the major under-developed regions of the world, which could serve as centres for studies on population problems of importance in the region and for the training of personnel in this field of study on a regional basis;

"(d) To explore the possibilities of co-operation in the programme of regional centres of demographic study and training, on the part of scientific institutions in other regions which have highly developed facilities for work in this field, and on the part of non-governmental organizations and private foundations;"

30. However, the prime responsibility for collection of information and preparation of studies continued to fall on the Secretary-General. As the chief channel of communication between United Nations organs and other international institutions, governments, private bodies, and individuals, he was mainly responsible for collecting the facts required by United Nations organs for the performance of their functions, and for keeping them informed of the progress made in implementing their decisions. In the period under review, to take a few examples, he was requested to collect information, or to prepare and continue studies, on topics such as the international flow of private capital; 71/ international tax problems; 72/ restrictive business practices; 73/ political rights of women; 74/ the legal status of married women; 75/ new sources of energy other than the atom; 76/ and water resources development. 77/

2. Operational functions of the Secretary-General

31. One of the major technical functions of the Secretary-General lies in the administration of comprehensive operational programmes in the fields of economic development, social affairs, and human rights. An outline of the type of function entrusted to the Secretary-General in these respects was included in the previous study of Article 98. Examples of certain rearrangements and developments in these programmes, during the period under review, are briefly summarized below. 78/

32. The United Nations Programme of Technical Assistance and the Expanded Programme of Technical Assistance for Economic Development were not the subject of any major reorganization during the period under review as regards the type of function conferred on the Secretary-General. Basically these programmes concerned the provision of experts, fellowships, and equipment to Governments requesting assistance in the fields of economic development, social welfare, and public administration. However, further

71/ G A resolution 824 (IX).

72/ G A resolution 825 (IX).

73/ E S C resolution 568 (XIX).

74/ E S C resolution 537 E (XX).

75/ E S C resolution 587 D, I (XX).

76/ E S C resolution 598 (XXI).

77/ E S C resolution 599 (XXI).

78/ A more detailed account of the operations of the Secretary-General in economic and social fields will be found in his annual reports to the General Assembly in the chapter entitled "Economic and Social Developments".

responsibilities continued to devolve on the Secretary-General with the increasing use made of the facilities offered by these programmes, and the widening of their scope. Concerning the latter point, the Secretary-General, in his annual report to the General Assembly at its tenth session, stated: 79/

"Various resolutions adopted by the General Assembly and by the Economic and Social Council and its commissions give evidence of the way in which technical assistance is now regarded as a valuable instrument of international co-operation. For example, during the year under review, resolutions dealing with the following subjects have contained references to the need for technical assistance: the flow of private capital; land reform; pulp and paper; freedom of information; transport and communications; human rights; measurements of standards of living; population studies; Non-Self-Governing Territories; community development; housing; the problem of the coca leaf; and the development of water resources."

In the following year the Economic and Social Council, at its twentieth and twenty-first sessions, drew the attention of Governments to the desirability of increased use of technical assistance facilities with regard to the expansion of world trade; 80/ training of welfare personnel; 81/ and cartography. 82/ These resolutions, and others like them, conferred a variety of functions on the Secretary-General apart from the actual operation of technical assistance programmes themselves. These other functions involved such questions as co-ordination with interested specialized agencies; the preparation of preliminary studies; and the convening of, and active participation in, working groups and conferences. To take one instance: in the Economic and Social Council's resolution 83/ concerning international co-operation with respect to water resource development the Secretary-General was requested to make arrangements for the collection, analysis and dissemination of information on current development of water projects, research programmes and related activities; to initiate, in co-operation with the competent specialized agencies and with the Governments concerned, a preliminary inquiry on existing hydrologic services, plans for their extension, and conditions for the execution of these plans; and to constitute a panel of world-renowned experts for reviewing, with the assistance of the United Nations Secretariat, the administrative, economic and social implications of integrated river-basin development, and for advising on the proper action — including, if they deemed it advisable, the convening of an international conference — to be taken in order to ensure a world-wide exchange of experience and data in related domains.

33. The operational functions of the Secretary-General in connexion with freedom of information were extended by the General Assembly at its ninth session when it authorized 84/ the Secretary-General to render, at the request of Member States, services which did not fall within the scope and objectives of existing technical assistance programmes, in order to assist those States in promoting freedom of information. Pursuant to this decision of the General Assembly, the Economic and Social Council requested 85/ the Secretary-General to take steps, in close collaboration with the Director-General of UNESCO, to put into operation a programme to promote freedom of information by providing such services as experts, fellowships and seminars.

79/ G A (X), Suppl. No. 1 (A/2911), p. 69.

80/ E S C resolution 579 A (XX).

81/ E S C resolution 585 D (XX).

82/ E S C resolution 600 (XXI).

83/ E S C resolution 599 (XXI).

84/ G A resolution 839 (IX).

85/ E S C resolution 574 A (IX). See also G A (X), Suppl. No. 1 (A/2911), pp. 52 and 53.

34. This programme was further elaborated and made applicable in a wider context in a resolution 86/ adopted by the General Assembly at its tenth session, which consolidated into a broad programme of "advisory services in the field of human rights" previous technical assistance programmes approved by the Assembly relating to the promotion and safeguarding of the rights of women, the eradication of discrimination, the protection of minorities, and the promotion of freedom of information. The relevant parts of the resolution read:

"The General Assembly

".....

"2. Authorizes the Secretary-General:

"(a) Subject to the direction of the Economic and Social Council, to make provision at the request of Governments, and with the co-operation of the specialized agencies where appropriate and without duplication of their existing activities, for the following forms of assistance with respect to the field of human rights:

"(i) Advisory services of experts;

"(ii) Fellowships and scholarships;

"(iii) Seminars;

"(b) To take the programme authorized by the present resolution into account in preparing the budgetary estimates of the United Nations;

"3. Requests the Secretary-General to undertake the assistance provided for in paragraph 2 (a) above, in agreement with the Governments concerned, on the basis of requests received from Governments and in accordance with the following policies:

"(a) The kind of service to be rendered to each country, under paragraph 2 (a) (i) shall be determined by the Government concerned;

"(b) The selection of the persons under paragraph 2 (a) (ii) shall be made by the Secretary-General on the basis of proposals received from Governments;

"(c) The amount of assistance and the conditions under which it is to be rendered shall be decided by the Secretary-General, with due regard to the greater needs of the under-developed areas, and in conformity with the principle that each requesting Government shall be expected to assume responsibility, as far as possible, for all or a considerable part of the expenses connected with the assistance furnished to it, either by making a contribution in cash, or by providing supporting staff, services and payment of local costs for the purpose of carrying out the programme;

"(d) The assistance shall be applicable to any subject in the field of human rights, in addition to the subjects covered by the relevant resolutions 87/ of the General Assembly, provided however that the subject

86/ G A resolution 926 (X).

87/ G A resolutions 200 (III), 246 (III), 305 (IV), 418 (V), 518 (VI) and 723 (VIII).

shall be one for which adequate advisory assistance is not available through a specialized agency and which does not fall within the scope of existing technical assistance programmes;".

In his annual report to the General Assembly at its eleventh session the Secretary-General stated ^{88/} that, as a first step towards implementing this programme, he was considering, with the consent of the Economic and Social Council, ^{89/} the feasibility of the organization of regional seminars on topics falling within the scope of the programme.

35. The operational functions of the Secretary-General in connexion with social questions were the subject of a comprehensive resolution adopted ^{90/} by the Economic and Social Council at its twentieth session. The topics dealt with included international definition and measurement of standards and levels of living; principles of community development; training of welfare personnel; financing of housing and community programmes; maintenance of family levels of living; and advisory social welfare services. In order to further the aims of the United Nations in these fields, with particular reference to the needs of under-developed countries, the Secretary-General, in association with the specialized agencies concerned, was requested to provide technical assistance at the request of Governments; to promote and convene, where necessary, regional seminars, conferences, meetings of experts and working groups; and to undertake studies, surveys and reviews.

3. Functions of the Secretary-General in connexion with assistance in procedural problems

36. Formal requests for the assistance of the Secretary-General in connexion with procedural problems were largely confined to matters concerned with the rules of procedure of United Nations organs in the period under review. Much assistance was rendered in this sphere in the form of informal consultations between the Secretary-General, or the official representing him at any particular meeting, and the officer presiding over the meeting; or of replies to questions raised by delegates in the course of debate. ^{91/}

37. In view of the fact that its rules of procedure contain no provisions on the announcement by the President of the results of votes or the circumstances in which representatives of States Members may be permitted to correct the position taken by them during a ballot, the General Assembly, at its ninth session, adopted ^{92/} a resolution requesting the Secretary-General to submit a report to the following session on the terms and application of the rules which in other inter-government organizations and in parliaments governed the announcement of the results of votes, on the conditions subject to which corrections were admitted, on the consequences of such corrections, and on possible provisions designed to prevent and correct any mistakes which might occur during voting procedure in the General Assembly and its committees. Pursuant to this request the Secretary-General prepared a comprehensive report ^{93/} on the basis of data received from various international organizations and Member States. ^{94/} At its tenth session the General Assembly considered this report, and

^{88/} G A (XI), Suppl. No. 1 (A/3137), p. 52.

^{89/} E S C resolution 605 (XXI).

^{90/} E S C resolution 585 (XX).

^{91/} See, for example, para. 40 below.

^{92/} G A resolution 901 (IX).

^{93/} G A (X), annexes, a.i. 51, pp. 1-10, A/2977.

^{94/} G A (X), Suppl. No. 1 (A/2911), p. 106; and G A (XI), Suppl. No. 1 (A/3137), p. 100.

decided 95/ to take no further action thereon for the present, while recommending that Member States should continue to study the question.

38. At its eighteenth session the Economic and Social Council adopted 96/ a resolution requesting the Secretary-General to prepare draft revised rules of procedure in order to make the rules of procedure of the Council conform to decisions 97/ taken at that session regarding the organization and operation of the Council and its commissions. However, at its nineteenth session the Council decided 98/ to amend certain of its decisions of the previous session regarding its organization and operation, which rendered it unnecessary to consider any of the proposed amendments to its rules of procedure 99/ which the Secretary-General had submitted. The Trusteeship Council also requested 100/ the Secretary-General to prepare a working paper on the changes necessary in its rules of procedure in view of the fact that Italy, upon its admission to the United Nations, had become a member of the Council as a Member State administering a Trust Territory. The amendments suggested by the Secretary-General were adopted by the Council.

*4. Functions of the Secretary-General in connexion with the
drafting of documents and legal assistance*

39. At its ninth session the General Assembly adopted 101/ a resolution requesting Parties to the International Convention concerning the Use of Broadcasting in the Cause of Peace 102/ to state whether they wished to transfer to the United Nations the functions which were performed, under the terms of that Convention, by the League of Nations. The Secretary-General was instructed:

"(a) To prepare for this purpose a draft protocol concerning the transfer to the United Nations of the functions assigned to the League of Nations under the International Convention concerning the Use of Broadcasting in the Cause of Peace;

"(b) To provide in the draft protocol for the accession of Members and non-members of the United Nations which are not Parties or signatories to the Convention, and also for such legal or other adjustments as may be necessitated by current conditions; including new articles, based on General Assembly resolution 424 (V) of 14 December 1950, to provide that each High Contracting Party shall refrain from radio broadcasts that would mean unfair attacks or slanders against other peoples anywhere and in so doing conform strictly to an ethical conduct in the interest of world peace by reporting facts truly and objectively, and to provide that each High Contracting Party shall not interfere with the reception, within its territory, of foreign radio broadcasts;

"(c) To circulate the draft protocol to the International Convention concerning the Use of Broadcasting in the Cause of Peace to the States Parties to that Convention."

95/ G A resolution 983 (X).

96/ E S C resolution 557 E (XVIII).

97/ E S C resolution 557 (XVIII).

98/ E S C resolution 578 (XIX).

99/ G A (X), Suppl. No. 1 (A/2911), p. 106.

100/ T C (XVIII), Suppl. No. 1 (T/1237), p. 61.

101/ G A resolution 841 (IX).

102/ League of Nations, Treaty Series, vol. CLXXXVI, 1938, p. 301.

40. The Secretary-General or his representative, on some occasions, furnished legal assistance at the meetings of an organ of the United Nations by expressing his views on a legal question that had been raised. In connexion with the resolution quoted in the previous paragraph, for example, a question arose in the Third Committee whether conventions concluded under the auspices of the League of Nations required a General Assembly decision in the form of a protocol of transfer in order to remain in force. The representative of the Secretariat replied that the General Assembly had decided the issue in resolution 24 (I), which provided that such conventions should have continuing effect and which authorized the Secretary-General of the United Nations to carry out the custodial functions of the Secretary-General of the League. The Secretary-General had acted as the depositary of League of Nations conventions even when there had been no protocol of transfer. He had received accessions and ratifications to a number of such instruments. All Member States had been notified and in no case had any question of validity arisen.

C. Financial functions of the Secretary-General

41. The practice of the United Nations in financial matters is analysed under Article 17 (1), (2) and (3). Like the previous study, therefore, this one is confined to a brief summary of some specific financial functions entrusted to the Secretary-General in the period under review.

42. At its ninth session the General Assembly established 103/ a Special Indemnity Fund for providing payment of compensation to staff members arising out of awards of the United Nations Administrative Tribunal. The Secretary-General was authorized 104/ to transfer certain credits to this Fund, as a first charge against income arising out of the staff assessment plan; and he was also empowered to charge against the Fund all payments to staff members arising out of awards of compensation made by the Administrative Tribunal in accordance with its Statute.

43. Under the revised Statute of the Administrative Tribunal 105/ the Secretary-General was authorized to make advance payments to staff members in whose favour an award had been made, if that award became the subject of an appeal to the International Court of Justice for an advisory opinion; it was provided that the advance was to be limited to one-third of the compensation awarded, less termination indemnities, and that if the advance exceeded the amount judged due by the Court the sum in excess of that amount was to be refunded to the United Nations.

44. The Secretary-General was empowered to record obligations against the credits of Member States, to the extent he considered necessary to cover liabilities for double taxation relief, under the Tax Equalization Fund established 106/ by the General Assembly at its tenth session. Revenue derived from the staff assessment plan not otherwise disposed of by specific resolution of the General Assembly was to be credited to this Fund. The Secretary-General might make payments 107/ from it to staff members who were subject both to staff assessment and to national income tax in respect of salaries and emoluments paid by the United Nations. The sum of each payment was limited to the amount of income tax paid by the staff member concerned on his United Nations income; but if this amount exceeded the amount of staff assessment paid by that staff member the Secretary-General might also refund the amount of such excess.

103/ G A resolution 888 C (IX).

104/ Ibid.

105/ G A resolution 957 (X).

106/ G A resolution 973 A (X).

107/ G A resolution 973 C (X).

45. In order to make the provisions regarding long-term investments more flexible the General Assembly, at its tenth session, adopted an amendment 108/ to the Financial Regulations, enabling the Secretary-General, after consultations with the Investments Committee, to make long-term investments of moneys standing to the credit of trust funds, reserve and special accounts, except as might be otherwise provided by the appropriate authority in respect of each such fund or account and having regard to the particular requirements as to the liquidity of funds in each case.

46. In the period under review, apart from the regular budget appropriations, the General Assembly on several occasions authorized the Secretary-General to undertake financial commitments on the basis of negotiations he was requested to carry out. For example, he was authorized 109/ to advance certain moneys out of the Working Capital Fund towards the cost of an extension of the Palais des Nations in Geneva to house the International Telecommunication Union (ITU), and the World Meteorological Organization (WMO), provided those specialized agencies agreed to accept the terms on which the United Nations was prepared to make such an advance. On another occasion the General Assembly authorized 110/ the Secretary-General to enter into an agreement with the city of San Francisco on the allocation of costs of the commemorative meeting of the tenth anniversary of the United Nations to be held in that city.

D. Political functions of the Secretary-General

1. Functions of the Secretary-General as mediator and informal adviser

47. In the Introduction to his annual report to the General Assembly at its tenth session the Secretary-General reviewed "the role of the Organization in diplomacy". He stated 111/ that:

"Conference diplomacy may usefully be supplemented by more quiet diplomacy within the United Nations, whether directly between representatives of Member Governments or in contacts between the Secretary-General and Member Governments. The obligations of the Charter, the environment of institutions dedicated to seeking out the common ground among the national interests of Member States, the wide representation from all continents and cultures, the presence of the Secretariat established as a principal organ of the United Nations for the purpose of upholding and serving the international interest - all these can provide help not to be found elsewhere, if they are rightly applied and used."

For the sake of convenience the practice of the Secretary-General in discharging his functions as mediator and informal adviser is viewed here in three aspects (see paragraphs 48-58 below): firstly the part played by him in private discussions with individual delegations or Governments at Headquarters or during the Secretary-General's visits to various countries; secondly the part played by him in carrying out specific mandates of a diplomatic nature conferred on him by resolution of the Security Council or of the General Assembly; and thirdly there is the part played - pursuant to resolutions of United Nations organs or in accordance with the provisions of particular treaties - in appointing arbitrators, mediators, or members of Commissions.

48. Some mention of the Secretary-General's role in private diplomatic discussions appeared in the Introduction to his annual report to the General Assembly at its

108/ G A resolution 950 (X).

109/ G A resolution 982 (X).

110/ G A resolution 889 B (IX).

111/ G A (X), Suppl. No. 1 (A/2911), p. xii.

ninth session. Referring to tension existing in the Middle East between Israel and the Arab States the Secretary-General declared: 112/

"As Secretary-General, I have also offered my services to the parties in order to facilitate negotiations aiming at the solution of certain practical problems of a limited scope."

Indications that this offer had been accepted appeared in the debate 113/ in the Security Council preceding the adoption of a resolution, discussed in detail below (See paragraphs 51-55) of 4 April 1956 on an agenda item entitled: "The Palestine Question: status of compliance given to the general armistice agreements and the resolutions of the Security Council adopted during the past year". The representatives of several Middle Eastern States referred to previous co-operation with the Secretary-General in an effort to reduce tension in the area, and as one delegate said: 114/

"We recently had the pleasure of welcoming Mr. Hammarskjöld .. when he made a flying visit to some States Members of the United Nations on his own initiative. On that occasion we discussed with him the very problems with which we are now concerned."

An exchange of communications between the Prime Minister of Israel and the Secretary-General during the latter's special mission to the Middle East, undertaken pursuant to the Security Council's resolution of 4 April 1956 (see paragraph 51 below), provided a further example of the diplomatic powers inherent in the office of the Secretary-General, over and above any specific mandate conferred on the holder of that office by an organ of the United Nations. In a message to the Secretary-General of 13 April 1956 115/ the Prime Minister of Israel raised the question of the closing of the Suez Canal to Israeli ships and other forms of interference with Israeli shipping. The Secretary-General, in his reply, stated that he believed this question fell outside the scope of his mandate under the Security Council resolution, but, he continued: 116/

"If a question were to be considered as outside my formal mandate, the extent to which a discussion of it is appropriate or possible for me in this context will be determined by the willingness of the Governments concerned to consider it with me in my capacity as Secretary-General."

49. In the period under review the Secretary-General received specific mandates from both the General Assembly and the Security Council requesting him to perform certain tasks. These requests arose in connexion with the detention and imprisonment by Chinese forces of United Nations military personnel formerly serving in Korea; 117/ with the Palestine situation; 118/ and with a petition from South West Africa concerning the refusal of the South African Government to grant a passport to an inhabitant of that territory who had been awarded a scholarship for study abroad. 119/

112/ G A (IX), Suppl. No. 1 (A/2663), p. xii.

113/ S C, 11th yr., 717th to 722nd mtgs.

114/ S C, 11th yr., 719th mtg., p. 5, para. 21; see also S C, 11th yr., 720th mtg., provisional record, pp. 2 and 13.

115/ S C, 11th yr., Suppl. for April, May and June 1956, p. 23, S/3587.

116/ Ibid.

117/ G A resolution 906 (IX).

118/ S C resolution of 4 April 1956 (S C, 11th yr., Suppl. for April, May and June 1956, p. 1, S/3575); S C resolution of 4 June 1956 (*ibid.*, p. 72, S/3605).

119/ G A resolution 938 (X).

50. A brief reference 120/ was made in the previous study of Article 98 to the resolution adopted by the General Assembly at its ninth session 121/ wherein the Secretary-General was requested to seek, in the name of the United Nations, the release of all captured personnel of the United Nations Command still detained by Chinese forces, and to make, by the means most appropriate in his judgement, continuing and unremitting efforts to that end. Subsequently, the Secretary-General reported 122/ to the General Assembly on the measures taken by him to implement this resolution. He stated that, 123/ following an exchange of communications with the authorities of the Central People's Government of the People's Republic of China, arrangements were made for him to visit Peking in order to establish a direct contact with the Central People's Government, which was not represented in any organs of the United Nations. This visit, the Secretary-General said, was aimed primarily at clarifying the substantive and legal aspects of the matter. After his return from Peking the Secretary-General continued an exchange of views with the Prime Minister of the People's Republic of China through a series of communications transmitted by the Swedish Embassy in Peking. By a letter addressed to the Secretary-General, given to the Swedish Ambassador in Peking on 29 May 1955, the Prime Minister of the Central People's Government announced that an investigation of the case of four detained flyers had been completed, and that these men would be deported immediately from the territory of the People's Republic. They arrived in Hong Kong on 31 May 1955. Thereafter, on 1 August 1955, an oral message was transmitted to the Secretary-General to the effect that eleven American flyers who had been detained and imprisoned would be released as soon as possible. They arrived in Hong Kong on 4 August 1955.

51. Reference has already been made in the foregoing paragraphs to the Secretary-General's mission to the Middle East undertaken pursuant to a resolution of the Security Council of 4 April 1956. 124/ The operative part of this resolution read:

"The Security Council,

".....

"1. Considers that the situation now prevailing between the parties concerning the enforcement of the armistice agreements and the compliance given to the above-mentioned resolution 125/ of the Council is such that its continuance is likely to endanger the maintenance of international peace and security;

120/ See in the Repertory, under Article 98, para. 113.

121/ G A resolution 906 (IX). This resolution resulted from an item proposed by the United States as the Unified Command and was primarily concerned with the case of eleven members of the United States armed forces under the United Nations Command captured by Chinese forces when undertaking a mission on 12 January 1953, at the direction of the United Nations Command. For debate in the General Assembly on this item, see G A (IX), Plen., 505th to 509th mtgs.

122/ G A (X), Suppl. No. 1 (A/2911), p. xii; 13 and 14; A/2954; and G A (XI), Suppl. No. 1 (A/3137), pp. 29 and 30.

123/ A/2954. See also G A (XI), Suppl. No. 1 (A/3137), pp. 29 and 30.

124/ S C, 11th yr., Suppl. for April, May and June 1956, p. 1, S/3575.

125/ The reference is to the resolutions of the Security Council of 30 March 1955 (S C, 10th yr., Suppl. for Jan., Feb., and March 1955, p. 96, S/3379); 8 September 1955 (S C, 10th yr., Suppl. for July, Aug. and Sept. 1955, p. 18, S/3435); and 19 January 1956 (S C, 11th yr., Suppl. for Jan., Feb. and March 1956, p. 6, S/3538).

"2. Requests the Secretary-General to undertake, as a matter of urgent concern, a survey of the various aspects of enforcement of and compliance with the four general armistice agreements and the Council's resolutions under reference;

"3. Requests the Secretary-General to arrange with the parties for the adoption of any measures which, after discussion with the parties and with the Chief of Staff, he considers would reduce existing tensions along the armistice demarcation lines, including the following points:

"(a) Withdrawal of their forces from the armistice demarcation lines,

"(b) Full freedom of movement for observers along the armistice demarcation lines and in the demilitarized zones and in the defensive areas;

"(c) Establishment of local arrangements for the prevention of incidents and the prompt detection of any violations of the armistice agreements;

"4. Calls upon the parties to the general armistice agreements to co-operate with the Secretary-General in the implementation of this resolution;

"5. Requests the Secretary-General to report to the Council in his discretion but not later than one month from this date on the implementation given to this resolution in order to assist the Council in considering what further action may be required."

The resolution had been submitted in draft form by the representative of the United States, on whose initiative the item was placed on the agenda of the Security Council. It was unanimously adopted without amendment. Discussion 126/ in the Council centred largely around requests from the representatives of Egypt, 127/ Israel, 128/ Jordan, 129/ Lebanon, 130/ and Syria, 131/ who participated in the meetings by invitation of the President of the Council, for elucidation of the exact scope of the Secretary-General's mandate; and around certain amendments, 132/ later rejected, that were proposed by the representative of the Soviet Union. The members of the Council were unanimous in the choice of the Secretary-General as the person best fitted for undertaking the tasks set out in the resolution. One member considered it 133/ particularly appropriate that the head of the Organization should be requested to carry out the mission, in order to emphasize the very great importance which the Security Council attached to it. The representative of Israel stated 134/ that his delegation had often advocated the fuller utilization of the office and person of the Secretary-General for the examination of international tensions, and that Mr. Hammarskjold's repeated efforts to help remove some of the specific sources of tension in the Middle

126/ S C, 11th yr., 717th to 722nd mtgs. For a summary of the meetings, see G A (XI), Suppl. No. 1, (A/3137), pp. 13 and 14.

127/ S C, 11th yr., 718th mtg., paras. 23-31; 721st mtgs., paras. 1-12.

128/ S C, 11th yr., 720th mtg., provisional record, pp. 2-5.

129/ Ibid., 719th mtg., paras. 8-15.

130/ Ibid., paras. 16-32.

131/ Ibid., 718th mtg., paras. 32-51.

132/ Ibid., 722nd mtg., paras. 36 and 44-46; 720th mtg., provisional record, pp. 3-9.

133/ Ibid., 717th mtg., para. 46.

134/ Ibid., 720th mtg., provisional record, p. 2.

East had always received, and would continue to receive, Israel's wholehearted co-operation. Other representatives expressed the view 135/ that the mission was rightly being entrusted to a man who was fully aware of the complexities of the situation, whom no one could suspect of bias, and whose highmindedness was beyond dispute. In a statement made after the adoption of the resolution, the Secretary-General declared: 136/

"The scope of the request of the Security Council is well indicated and it has been clarified further in the course of the debate. The specific responsibility which this request puts on the Secretary-General is entirely in line with the character and obligations of his office. It is obvious that this request neither detracts from nor adds to the authority of the Secretary-General under the Charter."

52. Two days after the adoption of the resolution by the Security Council the Secretary-General left for the Middle East for consultations with the Governments concerned 137/ on the questions raised in the resolution. During his mission the Secretary-General submitted a progress report 138/, and on his return he placed a full report before the Security Council on the outcome of his negotiations. In the first of these reports 139/ which was of a preliminary nature, the Secretary-General stated that in carrying out his mandate he had stayed strictly within the scope set by the Security Council resolution, which he interpreted in the first place as requesting him to survey and report on the state of compliance with the General Armistice Agreements and the resolutions of the Council which existed at the time of his arrival in the region, and in the second place as entitling him to negotiate with the parties for the re-establishment of compliance with these Agreements and resolutions. The Secretary-General's second report gave a full account of his mission, a general analysis of the situation with particular attention to that existing along the Armistice Demarcation Lines, a study of the position of the Truce Supervision Organization, and the results he was able to achieve in agreement with the interested Governments concerned. He stated, 140/ that his first step was to ask the Governments concerned for assurances - which he received in every case - that they would unconditionally observe the obligations under the cease-fire clause of each of the General Armistice Agreements, provided the other party complied with the same clause, reserving only their right to self-defence under Article 51 of the Charter. As a second step he studied with the interested Governments the possibility of re-establishing full compliance with various other clauses of the General Armistice Agreements, and he received assurances from all the Governments concerned of their willingness to comply fully with all the clauses of the Armistice Agreements, on the basis of reciprocity, while recognizing the independent position of the cease-fire clause. As a third step he put before the Governments proposals for local arrangements, including procedural measures within the framework of the Armistice Agreements and the relevant Security Council resolutions, and agreement was reached in certain important cases. 141/ The Secretary-General also

135/ For texts of relevant statements, see S C, 11th yr., 717th mtg., Australia, para. 32; France, paras. 21 and 26; Peru, para. 38; United Kingdom, paras. 45 and 46; 718th mtg., Belgium, para. 17; Cuba, para. 10; 719th mtg., Yugoslavia, para. 50; 720th mtg., provisional record, Iran, p. 13.

136/ S C, 11th yr., 722nd mtg.

137/ For an account of the Secretary-General's mission, see G A (XI), Suppl. No. 1, (A/3137), pp. 14-16.

138/ S C, 11th yr., Suppl. for April, May and June 1956, p. 27, S/3594.

139/ Ibid., p. 30, S/3596.

140/ Ibid., paras. 33-72. See also G A (XI), Suppl. No. 1 (A/3137), p. 15.

141/ S C, 11th yr., Suppl. for April, May and June 1956, p. 30, S/3596, paras. 73-91.

referred 142/ to certain other questions raised during his visit which he considered fell outside the scope of his mandate, including the question of the closing of the Suez Canal to Israeli shipping 143/, and the Jordan River diversion scheme of Israel. With reference to the latter, the Secretary-General said: 144/

"I have found that my formal stand under the terms of my mandate must be to request the parties to abide by decisions concerning the matter taken by the Security Council or under the armistice agreements, and as indicated in a previous section, to underline that in cases where different views are held as to the interpretation of a resolution of the Security Council, the Security Council alone can interpret its resolution. A departure on my side from the stand thus taken would have meant that I interfered with the jurisdiction of the Council or of the Chief of Staff. Such interference would have been objectionable not only as leading to confusion, but also as going beyond the terms of my mandate."

53. On 29 May 1956, the Security Council met to discuss the Secretary-General's report and to debate a draft resolution on the Palestine question submitted by the United Kingdom. As eventually adopted, by unanimous vote on 4 June 1956, the operative part of this resolution read: 145/

"The Security Council,

".....

"1. Commends the Secretary-General and the parties on the progress already achieved;

"2. Declares that the parties to the armistice agreements should speedily carry out the measures already agreed upon with the Secretary-General, and should co-operate with the Secretary-General and the Chief of Staff of the United Nations Truce Supervision Organization to put into effect their further practical proposals, pursuant to the resolution of 4 April 1956, with a view to full implementation of that resolution and full compliance with the armistice agreements;

"3. Declares that full freedom of movement of United Nations observers must be respected along the armistice demarcation lines, in the demilitarized zones and in the defensive areas, as defined in the armistice agreements, to enable them to fulfil their functions;

"4. Endorses the Secretary-General's view that the re-establishment of full compliance with the armistice agreements represents a stage which has to be passed in order to make progress possible on the main issues between the parties;

"5. Requests the Chief of Staff to continue to carry out his observation of the cease-fire pursuant to the Security Council's resolution of 11 August 1949 and to report to the Council whenever any action undertaken by one party to an armistice agreement constitutes a serious violation of that agreement or of the cease-fire, which in his opinion requires immediate consideration by the Council;

142/ S C, 11th yr., Suppl. for April, May and June 1956, p. 30, S/3596, paras. 92-100.

143/ See para. 48 above.

144/ S C, 11th yr., Suppl. for April, May and June 1956, p. 30, S/3596, para. 97.

145/ S C resolution of 4 June 1956, S C, 11th yr., Suppl. for April, May and June 1956, p. 72, S/3605.

"6. Calls upon the parties to the armistice agreements to take the steps necessary to carry out this resolution, thereby increasing confidence and demonstrating their wish for peaceful conditions;

"7. Requests the Secretary-General to continue his good offices with the parties, with a view to full implementation of the Council's resolution of 4 April 1956 and full compliance with the armistice agreements, and to report to the Security Council as appropriate."

54. In the original draft 146/ of the United Kingdom's proposed resolution, paragraph 7 requested the Secretary-General to continue his good offices with the other parties, and to report to the Security Council as appropriate, without making any reference to the Council's resolution of 4 April 1956. Introducing his resolution the representative of the United Kingdom said that: 147/

"The resolution requests the Secretary-General to continue his good offices with the parties.

"This is not a mission. It is not a mandate. It is not proposed that the Council should ask the Secretary-General to go straight back to the area. It is not proposed that the Council should ask the Secretary-General to take this or that specific action. The operative paragraphs of the resolution which I have already explained set out the way in which my delegation considers that progress should now be made. Our idea is that the Council should ask the Secretary-General to continue, - and I stress the word 'continue' - his good offices with the parties - and I stress the words 'with the parties'. He would be available to help them now to make progress toward the full implementation of the resolution of 4 April and full compliance with the Armistice Agreements - and no doubt he would, if he thought it desirable, make suggestions to them to this end.

"I think we should be wise not to go beyond asking the Secretary-General in this general way to be of assistance. The members of the Council and the parties know that the Secretary-General will respond to our request to him to continue to help in the most constructive way. We must leave it to him, as we can do with confidence, to decide exactly what to do. There are many things which first need to be done before full compliance with the Armistice Agreements is achieved. I am confident that the Secretary-General, with the parties, will seize every available opportunity to proceed in this direction."

However, the representative of the United Kingdom agreed to amend paragraph 7 to refer specifically to the Council's resolution of 4 April 1956 after several delegates, including representatives of some of the parties to the Armistice Agreements who were participating in the discussions on the invitation of the President, had raised questions 148/ concerning the nature and extent of the "good offices" to be exercised by the Secretary-General under the draft resolution. They expressed the view that the original draft resolution was open to the interpretation that the Secretary-General was expected to review the whole Palestine question in its entirety, and not to confine himself to the limits of his earlier mandate.

146/ S C, 11th yr., Suppl. for April, May and June 1956, p. 68, S/3600/Rev.1.

147/ S C, 11th yr., 723rd mtg., provisional record, pp. 14 and 15.

148/ See, for example, S C, 11th yr., 725th mtg., provisional record, Egypt, pp. 38 and 39; Jordan, pp. 45 and 46; Lebanon, p. 54; Syria, pp. 13-15.

55. After the unanimous adoption of the resolution as amended, the delegate of Israel gave 149/ the following as his interpretation of the functions conferred on the Secretary-General in the resolution:

"I should like to make it clear that, from our political and juridical viewpoint, the office of the Secretary-General figures in this subject on three different levels. The Secretary-General is requested by the currently adopted resolution to work along the lines of the resolution of 4 April 1956 toward a full compliance with the Armistice Agreements. As a principal organ of the United Nations under its Charter, the Secretary-General, like all other principal organs, is no doubt available for the use of good offices between the parties whenever there is a mutual desire that his good offices should be used in matters either within or beyond the context of the Armistice Agreements. Thirdly, in the Armistice Agreements themselves, under Article XII of the Egyptian and Jordanian Agreements and Article VIII of the Syrian and Lebanese Agreements, the Secretary-General is requested by the signatory parties to assume a special obligation. In the event that either signatory wishes to revise or suspend or modify the Agreement in the light of its transitional character as a step toward permanent peace, the Secretary-General is empowered to convene a conference of the two signatories for the purpose of considering such changes or modifications or instituting such a review, and the attendance of the other party in that instance is mandatory."

The Secretary-General himself, in a statement made at the end of the debate, declared 150/ that he regarded this resolution as continuing the mandate conferred on him by the resolution of 4 April 1956.

56. A further specific mandate of a diplomatic nature was conferred on the Secretary-General in a resolution 151/ adopted by the General Assembly at its tenth session, which invited the Secretary-General to use his good offices with the Government of the Union of South Africa in order to assist a Native school principal of South West Africa to obtain a passport and all other administrative facilities so that he might avail himself of a scholarship granted to him by Oxford University.

57. The Secretary-General, on several occasions in the period under review, was requested by the General Assembly to appoint arbitrators or mediators, or members of Commissions. At its ninth session, the General Assembly, affirming earlier decisions on the topic, adopted a resolution 152/ recommending that should direct negotiations fail between Italy and Ethiopia on the question of the determination of the frontier between the Trust Territory of Somaliland under Italian administration and Ethiopia, the two Governments should agree to a procedure of mediation by a United Nations mediator to be appointed by the Secretary-General. According to the annual report of the Secretary-General to the General Assembly at its eleventh session 153/ direct negotiations between the two Governments were still proceeding. In a resolution adopted at its ninth session the General Assembly decided 154/ that should any of the members of the United Nations Commission on the Racial Situation in the Union of South Africa be unable to continue their membership, the member or members concerned should, if the General Assembly were not sitting, be replaced by a person or persons

149/ S C, 11th yr., 728th mtg., provisional record, p. 28.

150/ S C, 11th yr., 728th mtg., provisional record, pp. 67-70.

151/ G A resolution 938 (X).

152/ G A resolution 854 (IX).

153/ G A (XI), Suppl. No. 1 (A/3137), p. 75.

154/ G A resolution 820 (IX).

appointed by the President of the General Assembly in consultation with the Secretary-General. At its tenth session the General Assembly resolved 155/ to terminate the United Nations Tribunal in Libya and to establish an Italian-Libyan Mixed Arbitration Commission consisting of three members, one to be appointed by the Government of Italy, one by the Government of Libya, and the third by the Secretary-General, upon joint designation of Italy and Libya or, in the absence of a joint designation, directly by him. In his annual report to the General Assembly at its eleventh session the Secretary-General stated 156/ that he had appointed the umpire of the Commission upon joint designation by the Italian and Libyan Governments.

58. In connexion with the question of the treatment of people of Indian origin in the Union of South Africa, the General Assembly, at its ninth session, decided 157/ that, if within the six months following the date of the adoption of the resolution, the Governments of India, Pakistan and the Union of South Africa proved unable to reach a solution of the question by direct negotiations, the Secretary-General should designate a person to facilitate contacts between these Governments and to assist them in settling the dispute. In his annual report to the General Assembly at its tenth session, the Secretary-General stated 158/ that on the expiration of the six-months' period mentioned in the resolution, he had inquired from the Government of Brazil whether it would be prepared to suggest a person whose services could be made available for the purpose of facilitating contacts between the parties and assisting them in settling the dispute. In reply, the Government of Brazil suggested Ambassador Luis de Faro, whom the Secretary-General formally designated in a letter to the Governments concerned on 28 June 1955. In a report submitted to the General Assembly at its tenth session, the Secretary-General stated 159/ that Ambassador de Faro had been unable to facilitate negotiations as the South African Government had declined to co-operate since it feared that by so doing it would prejudice its juridical view that the question was a purely domestic matter in which the United Nations had no power to intervene under the provisions of Article 2 (7) of the Charter.

2. The question of the right of the Secretary-General to make proposals and statements to United Nations organs

59. While the right of the Secretary-General to propose items and to make statements to United Nations organs is established under the rules of procedure 160/ and in the practice of these organs 161/ during the period under review there has been occasional discussion of the extent of that right. For example, at the tenth session of the General Assembly the Secretary-General made a statement 162/ to the Third Committee on the procedures he considered most desirable at that time for studying the question of the self-determination of peoples and the draft international covenants on human rights. In the course of his statement the Secretary-General said that he was somewhat sceptical about the usefulness or practicability of establishing a commission, as suggested by the Economic and Social Council 163/ to survey the status of the right

155/ G A resolution 988 (X).

156/ G A (XI), Suppl. No. 1 (A/3137), p. 103.

157/ G A resolution 816 (IX).

158/ G A (X), Suppl. No. 1 (A/2911), p. 20.

159/ G A (X), annexes, a.i. 20, pp. 1 and 2, A/3001. See also, G A (XI), Suppl. No. 1 A/3137, p. 21.

160/ See in the *Repertory*, under Article 98, paras. 114-125.

161/ For some examples of proposals made by the Secretary-General or his representative to United Nations organs see paras. 14 and 15 above.

162/ G A (X), 3rd Com., 633rd mtg., paras. 1-7.

163/ E S C resolution 586 D (XX).

of permanent sovereignty over the natural wealth and resources of the peoples and nations of the world; he thought the United Nations would do better to concentrate on concrete projects with well-defined objectives, and having regard to the atmosphere in which the question of self-determination was being discussed, the setting up of such a commission and its debates might introduce complications in the co-operation between all the nations concerned which was essential in any programme for the economic improvement of the industrially under-developed areas of the world. He continued that it was imperative, particularly at the stage then reached, to try to make the best use of existing machinery before contemplating setting up any new organs; and it was difficult to see what the proposed commission could do that could not more appropriately be done by one of the Councils or by one of the Committees of the General Assembly. There might be some justification, however, for setting up a committee of a temporary character, to serve as a political forum in which representatives of Governments would attempt to reach agreement on certain basic principles involved in the question of self-determination of peoples, and to draft a declaration on self-determination for consideration by the General Assembly.

60. One representative protested 164/ against this statement as an intervention which would delay article by article discussion, pursuant to General Assembly resolution 833 (IX), of the draft international covenants on human rights, which commenced with an article on the right of self-determination. At the next meeting the same representative said 165/ that "the Secretary-General, who should be debarred by his very office from taking sides on political issues, had appeared in his unprecedented speech to be making himself the spokesman of those Powers which were opposed to the free exercise of the right of peoples and nations to self-determination". Another representative, while expressing some regret that the Secretary-General's statement should have come as a surprise, said 166/ that "the Secretary-General had a perfect right, under the Charter of the United Nations, to make a statement on the subject". Most of the other speakers supported this latter view. 167/ One representative, however, commenting on a reference by a previous speaker to the Secretary-General's statement as the "Secretary-General's proposals" stated 168/ that in the opinion of her delegation, the Secretary-General was not empowered to make proposals under Article 100 or any other Article of the United Nations Charter, or under the rules of procedure of the General Assembly. In reply to this and other remarks it was said, 169/ that the protests against the Secretary-General's action revealed a misconception of the extent of his powers under the United Nations Charter. The Secretary-General was the only international official who was empowered on his own initiative to call a meeting of the Security Council to deal with questions concerning international peace; it was absurd to suggest that he had no right to draw the Third Committee's attention to dangers which in his view threatened the Covenants on Human Rights as well as the Organization itself.

E. The representational functions of the Secretary-General

1. *Functions of the Secretary-General with regard to the negotiation and conclusion of agreements*

61. In the period under review the General Assembly on several occasions requested the Secretary-General to act as the representative of the United Nations in exploring

164/ G A (X), 3rd Com., 633rd mtg., para. 18.

165/ G A (X), 3rd Com., 634th mtg., para. 4.

166/ *Ibid.*, para. 6.

167/ *Ibid.*, paras. 12 and 16; 635th mtg., paras. 9 and 16.

168/ *Ibid.*, 635th mtg., para. 28.

169/ *Ibid.*, 636th mtg., para. 41.

the possibility of entering into agreements, or in negotiating and concluding certain agreements with Governments or other entities. For example, in a resolution adopted at its ninth session the General Assembly authorized 170/ the Secretary-General to conclude an agreement with the city of San Francisco on the allocation of costs for a commemorative meeting of the tenth anniversary of the United Nations to be held by invitation in that city in June 1955. A further example is provided by a resolution 171/ adopted by the General Assembly at its tenth session concerning the establishment and maintenance of a United Nations Memorial Cemetery at Tanggok in Korea. In this resolution the Secretary-General, acting on the advice of a Committee consisting of representatives of those countries whose men were buried at Tanggok, was requested to arrange for the negotiation of an agreement with the Republic of Korea in order to secure the permanent use of the site of the memorial cemetery. Also at its tenth session the General Assembly authorized 172/ the Secretary-General to enter into negotiations with the International Telecommunication Union and the World Meteorological Organization for the construction of a suitable extension of the Palais des Nations in Geneva to house these specialized agencies. The resolution further authorized the Secretary-General to enter into negotiations with the Government of Switzerland in consultation with the Secretaries-General of the International Telecommunication Union and the World Meteorological Organization with a view to ascertaining the possibilities of Swiss financial assistance towards the extension of the Palais des Nations.

2. Representational functions of the Secretary-General in legal proceedings

a. COURT PROCEEDINGS

62. At its tenth session the General Assembly adopted 173/ certain amendments to the Statute of the Administrative Tribunal, in order to provide a procedure for review of the Tribunal's judgements. Under these amendments the Secretary-General, a Member State or a person in respect of whom a judgement had been rendered by the Tribunal who objected to the judgement on the ground that the Tribunal had exceeded its jurisdiction or competence, had erred on a question of law relating to the provisions of the Charter, or had committed a fundamental error in procedure, might make an application to a special Committee 174/ to request an advisory opinion of the International Court of Justice on the matter. Furthermore, the Secretary-General or other applicant was given the power to apply to the Administrative Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The resolution embodying these amendments to the Statute of the Tribunal also recommended that neither Member States nor the Secretary-General should make oral statements to the International Court of Justice in any proceedings before the Court under this new procedure.

170/ G A resolution 889 B (IX).

171/ G A resolution 977 (X).

172/ G A resolution 982 (X).

173/ G A resolution 957 (X). See also G A (XI), Suppl. No. 1 (A/3137), p. 106.

174/ This Committee is composed of Member States, the representatives of which have served on the General Committee of the most recent regular session of the Assembly.

**** b. ARBITRATION PROCEEDINGS****c. PROSECUTION OF CLAIMS**

63. In his annual reports to the General Assembly at its ninth and tenth sessions the Secretary-General gave an account 175/ of the procedures he had followed in the prosecution of certain claims against States arising out of the death of three United Nations personnel, killed in the performance of their official duties.

3. Functions of the Secretary-General with regard to United Nations Headquarters**a. IMPLEMENTATION OF THE HEADQUARTERS AGREEMENT**

64. In the period under review the Secretary-General negotiated with the United States of America over the application of the Headquarters Agreement concerning the access to Headquarters of representatives of non-governmental organizations in consultative status with the Economic and Social Council. An account of the progress of these negotiations is contained in the annual reports of the Secretary-General to the General Assembly at the ninth 176/ and the eleventh 177/ sessions.

**** b. HEADQUARTERS REGULATIONS****** 4. Other representational functions of the Secretary-General****5. Functions of the Secretary-General in the field of public information**

65. Apart from the performance of his functions — described in the previous study of Article 98 — within the broad field of public information the Secretary-General was occasionally requested by a United Nations organ to give publicity to or provide information on some particular question. For example, in the period under review, he was requested:

a. To give the draft International Covenants on Human Rights the widest possible publicity through all the media of information available to him, and within the limits of his budget; 178/

b. To include in the United Nations information material details of all offers of study and training facilities in Member States open to the inhabitants of non-self-governing territories, and of the procedures to be followed in submitting applications pursuant to such offers; 179/

c. To publish, and to disseminate to States Members of the United Nations or members of the specialized agencies, documents and evaluations produced by the scientific committee on the effects of atomic radiation; 180/

175/ G A (IX), Suppl. No. 1 (A/2663), pp. 101 and 102; and G A (X), Suppl. No. 1 (A/2911), p. 109.

176/ G A (IX), Suppl. No. 1 (A/2663), pp. 100 and 101.

177/ G A (XI), Suppl. No. 1 (A/3137), pp. 99 and 100. See also in this Supplement, under Articles 104 and 105.

178/ G A resolution 833 (IX).

179/ G A resolution 845 (IX).

180/ G A resolution 913 (X).

d. To transmit a study on the legal aspects of the rights and responsibilities of the media of information to appropriate information enterprises and professional associations for their information; 181/

e. To utilize the reports of the world social situation and the United Nations statistical reports and related studies to disseminate information on levels of living and changes therein; 182/

f. To prepare and arrange for the publication at an early date of material on the legal status of married women. 183/

181/ E S C resolution 574 B (XIX).
182/ E S C resolution 585 B (XX).
183/ E S C resolution 587 D (XX).