

REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS

SUPPLEMENT NO. 10 (2000-2009)¹

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VOLUME VI

Provisional Version

ARTICLE 101

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¹ Note that the present study also covers – in addition to the period covered by Supplement No. 10 (2000-2009) - the year 2010.

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TEXT OF ARTICLE 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.
2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.
3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

INTRODUCTORY NOTE

1. Article 101 provides the cornerstone of the United Nations' framework for the recruitment and employment of its staff; the authority of the Secretary-General to administer, and the authority of the General Assembly to regulate the staff of the United Nations. It is through this hermeneutic principle that the present study examines the questions that arose regarding Article 101 during the time period of 2000 – 2010.
2. This study covers the period of 2000-2010 and is divided into two sections because of the amount of material relating to Article 101 during this 10 year period. The first Analytical Summary of Practice deals with the period of 2000-2005 and the second with the period of 2006-2010.
3. The content of this study has been developed in a way to best allow the reader to not only understand what changes occurred during this period, but also how and why. For that purpose, the majority of the issues are approached in a chronological manner by sub-heading to best facilitate the readers understanding of the development of a particular issue. Further, primary source material has been added to the footnotes of this study, when appropriate, for ease

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of reference and to allow the reader better insight into the actions of the United Nations Organs from 2000 through 2010.

I. GENERAL SURVEY

4. The main issues that arose in 2000 were related to the human resources management reform,² conditions of service of the United Nations staff members,³ geographical distribution,⁴ changes to the pension adjustment system,⁵ and amendments to the Statute of the United Nations Administrative Tribunal.⁶

5. In 2001, the primary issues continued to be those related to conditions of service,⁷ the strengthening of the International Civil Service Commission (ICSC)⁸, and reform of the administration of justice in the UN system.⁹

6. In 2002, the main focus was on issues related to the strengthening of the ICSC,¹⁰ the human resources management reform,¹¹ the status of women in the Secretariat,¹² the reform

² G A resolution 55/223, A/55/397, A/55/253, A/55/499.

³ G A resolution 55/223, A/55/30.

⁴ G A resolutions 55/258, 55/159, A/55/615.

⁵ G A resolution 55/224, A/55/9.

⁶ G A resolution 55/258, JIU/REP/2000/1, A/55/57, A/55/514.

⁷ G A resolution 56/244, A/56/30.

⁸ G A resolution 56/244.

⁹ A/56/800.

¹⁰ G A resolution 57/285, A/57/612.

¹¹ A/57/293.

¹² G A resolution 57/180, A/57/447, E/CN.6/2002/7.

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of the administration of justice in the UN system,¹³ and the establishment of the post of Ombudsman to strengthen informal mechanisms for conflict resolution.¹⁴

7. In 2003, the primary emphasis continued to be on issues related to the status of women in the Secretariat,¹⁵ as well as the transparency, efficiency and effectiveness of the recruitment process¹⁶ and reform of the administration of justice in the UN system.¹⁷

8. In 2004, the issues under consideration consisted of the strengthening the ICSC,¹⁸ the conditions of service,¹⁹ improvement of the status of women in the UN system,²⁰ measures to prevent discrimination on the basis of nationality, race, gender, religion or language in the United Nations,²¹ the administration of justice in the Secretariat, the financial independence of the United Nations Administrative Tribunal,²² and the harmonization of the Statutes of the United Nations Administrative Tribunal (UNAT) and the International Labour Organization Administrative Tribunal.²³

9. In 2005, the primary issues continued to be the strengthening of equitable geographical distribution²⁴ and reform of the administration of justice in the UN system.²⁵

¹³ G A resolution 57/307, A/57/736, JIU/REP/2002/5, A/57/441.

¹⁴ G A resolution 57/307, A/57/441/Add.1, JIU/REP/2002/5, ST/SGB/2002/12.

¹⁵ G A resolution 58/144, A/58/374, E/CN.6/2003/8.

¹⁶ G A resolution 57/305, A/59/263.

¹⁷ GA resolution 58/270, A/58/680.

¹⁸ A/59/153, A/59/30 (Vol. II.), A/59/399.

¹⁹ G A resolution 59/268, A/59/30 (Vol. I).

²⁰ G A resolutions 59/250, 59/164, E/CN.6/2005/3, A/59/357, A/59/263/Add.2, A/59/30 (Vol. I).

²¹ G A resolution 59/266, A/59/263, A/59/211, A/59/263/Add.2.

²² G A resolution 59/283, A/59/78.

²³ G A resolution 59/283, A/59/280, JIU/REP/2004/3.

²⁴ G A decision 59/551C, A/59/724.

²⁵ G A resolution 59/283, A/59/883, A/60/7/Add.1, A/60/376, A/61/205.

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10. The main issues that arose in 2006 were related to the human resources management reform,²⁶ the conditions of service of the United Nations staff members, harmonization of the conditions of service,²⁷ the improvement of the status of women in the United Nations system,²⁸ the streamlining of United Nations contractual arrangements,²⁹ the staff selection system,³⁰ and reforming the administration of justice in the UN system.³¹

11. In 2007, the primary issues continued to be those related to human resources management reform,³² streamlining the United Nations contractual arrangements,³³ harmonizing the conditions of service,³⁴ expediting the staff selection process, the strengthening of the International Civil Service Commission (ICSC),³⁵ reform of the administration of justice in the UN system,³⁶ creating a single, integrated, and decentralized Office of the Ombudsman,³⁷ establishment of an independent Management Evaluation Unit,³⁸ the establishment of a two-

²⁶ G A resolution 60/238, G A resolution 60/260, G A resolution 60/283, G A resolution 61/244, A/61/228, A/61/228/Corr.1.

²⁷ G A resolution 61/239, G A resolution 61/244, G A resolution 61/239, A/61/30, A/61/30/Add.1, A/61/255.

²⁸ G A resolution 61/239, A/61/30, A/61/318.

²⁹ G A resolution 61/239, G A resolution 61/244, A/61/30/Add.1, A/61/255, A/60/692, A/61/537, A/61/587.

³⁰ G A resolution 60/260, G A resolution 61/244, A/60/692 and Corr.1, A/61/228, A/61/255.

³¹ G A resolution 61/261, A/61/205, A/61/758.

³² G A resolution 62/248, A/61/806, A/61/822, A/62/215.

³³ G A resolution 62/248, A/62/274, A/62/7/Add.14, A/62/274, A/61/857.

³⁴ G A resolution 62/227, G A resolution 62/248, A/61/857.

³⁵ G A resolution 62/227, A/62/30.

³⁶ G A resolution 61/261, G A resolution 62/228.

³⁷ G A resolution 62/228.

³⁸ G A resolution 62/228, A/62/294.

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tiered system of formal justice,³⁹ and the formation of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal.⁴⁰

12. In 2008, the main focus was on issues related to the improvement of the status of women in the United Nations system,⁴¹ the amendments to the Staff Regulations that would implement the streamlined system of contracts,⁴² the staff selection system and especially the implementation of a roster-based system,⁴³ strengthening the role and functioning of the ICSC,⁴⁴ the administration of justice reform,⁴⁵ the independence of the Management Evaluation Unit,⁴⁶ the adoption of the statutes of the United Nations Dispute Tribunal and United Nations Appeals Tribunal, and the election of the judges.⁴⁷

13. In 2009, the primary emphasis continued to be on issues related to human resources management reform,⁴⁸ the improvement of the status of women in the United Nations system,⁴⁹ the new contractual arrangements and staff rules,⁵⁰ reform of the administration of justice in the UN system,⁵¹ and approval of the rules of procedure for the Tribunals.

³⁹ G A resolution 62/228.

⁴⁰ G A resolution 62/228.

⁴¹ G A resolution 63/251, A/63/30.

⁴² G A resolution 63/271, A/63/189, A/63/282, A/63/250, A/63/694.

⁴³ A/63/282, A/63/285, A/63/526.

⁴⁴ G A resolution 63/251.

⁴⁵ G A resolution 63/253, A/63/283, A/63/314.

⁴⁶ G A resolution 63/256, A/63/545.

⁴⁷ G A resolution 63/253.

⁴⁸ A/64/518.

⁴⁹ G A resolution 64/231, A/64/30 and Corr. 2.

⁵⁰ A/64/230, A/64/267.

⁵¹ G A resolution 64/119, G A resolution 64/233, A/64/229, A/64/314, A/64/508.

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14. In 2010, the primary issues continued to be the human resources management reform,⁵² the improvement of the status of women in the United Nations system,⁵³ the harmonization of the conditions of service,⁵⁴ issues related to allowances and benefits,⁵⁵ amendments to the staff rules,⁵⁶ implementation of continuing appointments,⁵⁷ speeding up the recruitment and staffing process, reform of the administration of justice in the UN system,⁵⁸ and the election of judges to the United Nations Dispute Tribunal and United Nations Appeals Tribunal.⁵⁹

II. ANALYTICAL SUMMARY OF PRACTICE (2000-2005)

A. The Principle of Geographical Distribution

(a) In general

15. During the period under review, the General Assembly continued to grant considerable attention to the principle of geographical distribution in regards to the composition of the Secretariat. During the period under review, the General Assembly annually requested that the Secretary-General ensure that due regard was given to the principle of equitable geographical

⁵² G A resolution 65/247, A/64/230, A/64/267, A/65/202, A/65/213, A/65/305, A/65/305/Add.1, A/65/305/Add.3, A/65/350, A/65/537.

⁵³ A/65/30.

⁵⁴ A/65/305/Add.1, A/65/30.

⁵⁵ G A resolution 65/248, A/65/30.

⁵⁶ G A resolution 65/247, A/65/202, A/65/305/Add.1.

⁵⁷ G A resolution 65/247, A/65/305/Add.1.

⁵⁸ G A resolution 65/251, A/65/303, A/65/373, A/65/374, A/65/557.

⁵⁹ G A resolution 65/251, A/65/373.

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distribution in the employment of staff, in accordance with Article 101, paragraph 3, of the Charter of the United Nations.⁶⁰

16. In 2001, the General Assembly again requested⁶¹ that the Secretary-General task the Office of Human Resources Management to maintain and oversee a recruitment process that would ensure the principles of equitable geographical distribution and gender balance⁶² were respected.⁶³ In the administration of this program, the General Assembly emphasized the need to increase the number of staff recruited from unrepresented and underrepresented Member States, and as such requested that the Secretary-General develop a program and specific targets for achieving equitable geographical representation as soon as possible, and report to the General Assembly thereon at its fifty-seventh session.⁶⁴ In General Assembly Resolution 55/258 the General Assembly reiterated its commitment to ensuring that any recruitment, appointment, or promotion of staff shall be made without to distinction as to race, sex, or religion, in accordance with the principles of the Charter and the provisions of the Staff Regulations and Rules of the United Nations.

17. During the fifty-seventh session of the General Assembly, resolution 57/305 was adopted. In this resolution, the General Assembly expressed its concern at the increase in the number of overrepresented Member States, as well as the number of Member States that

⁶⁰ G A resolution 55/258, para. 2, and GA resolution 57/305 para. 8.

⁶¹ G A resolution 55/258 para. 7.

⁶² G A resolution 55/258, and G A resolution 57/305.

⁶³ In accordance with G A resolutions 42/220 A, 51/226, 53/221.

⁶⁴ G A resolution 55/258, section, II, para. 8.

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continued to be either unrepresented or underrepresented,⁶⁵ and requested that the Secretary-General take the necessary measures to hold the relevant department heads accountable for the human resources action plans (and to ensure that they take due account of the goals of equitable geographical representation when considering candidates).⁶⁶ In addition, the General Assembly also recognized that the implementation of Galaxy should have a positive impact and help to improve equitable geographical distribution in the recruiting process of the United Nations staff.⁶⁷ Further, the General Assembly reiterated its request urging the Secretary-General to intensify his efforts to achieve the goal of a 50/50 gender distribution as set forth in resolution 53/221.

18. During the fifty-seventh and fifty-ninth sessions of the General Assembly respectively, the Assembly continued to emphasize that the Secretary-General must play an active role in achieving an equitable geographical distribution of United Nations staff members. During the aforementioned sessions, the General Assembly reaffirmed its requirement that the Secretary-General must provide an indicative means to measure progress in improving equitable geographical distribution,⁶⁸ reiterated its request that the Secretary-General ensure the equitable representation of Member States at the senior and policy-making levels (with particular regard to unrepresented, underrepresented, and developing countries),⁶⁹ requested that the Secretary-General set specific targets and develop a program for achieving equitable geographic

⁶⁵ G A resolution 57/305, section II, para. 27.

⁶⁶ Ibid., para. 33.

⁶⁷ Ibid., para. 31.

⁶⁸ Ibid., para. 28.

⁶⁹ Ibid., para. 38, GA resolution 59/266 section IV para. 6.

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representation,⁷⁰ and requested that the Secretary-General provide an analysis of overrepresentation and underrepresentation on his next report on the composition of the Secretariat.⁷¹ Finally, the General Assembly requested that the Secretary-General fully reach the level of posts subject to geographical distribution as approved by resolution 42/220A of 1987,⁷² and reiterated its request that the Secretary-General submit additional reports concerning equitable geographical distribution at the fifty-ninth and sixty-first sessions of the General Assembly.⁷³

19. In 2004, during the fifty-ninth session of the General Assembly, the Assembly welcomed the continuing efforts of the Secretary-General to attain equitable geographical distribution, noted with appreciation the progress that had been made since 1994 towards that goal, and approved of the practice of sending recruitment missions to unrepresented and underrepresented Member States.⁷⁴ However, in the same resolution, the General Assembly noted the low percentage of appointments from unrepresented and underrepresented Member States, as well as the decline in the proportion of nationals from developing countries in policy-making and senior level posts.⁷⁵

20. It is at this time that the General Assembly made three important statements in the General Assembly resolution 59/266: (1) the General Assembly noted that the system of

⁷⁰ G A resolution 59/266, section IV para. 11, G A resolution 57/305 section II, para. 29.

⁷¹ G A resolution 57/305, section II, para. 38, G A resolution 59/266 section IV, para. 12.

⁷² G A resolution 57/305, section IX, para. 2, GA resolution 59/266 section V, para. 1.

⁷³ G A resolution 57/305, section IX, para. 1, 2, GA resolution 59/266 section V, para. 2,3.

⁷⁴ G A resolution 59/266, section IV.

⁷⁵ Ibid., paras. 4,5.

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geographic ranges was designed to apply to countries, and not regions or other groupings;⁷⁶ (2) the General Assembly authorized the Secretary-General to establish a special roster of candidates from underrepresented and unrepresented Member States for a two-year trial period;⁷⁷ and (3) the General Assembly requested that the Board of Auditors conduct an audit of the implementation of geographical distribution, and submit the findings and recommendations to the General Assembly at its sixty-first session.⁷⁸

21. In 2005, the Secretary-General submitted the aforementioned report that the General Assembly requested be submitted at its fifty-ninth session,⁷⁹ which provided a comprehensive analysis of the then-current system of geographical distribution.⁸⁰ The report analyzed three scenarios for the General Assembly to consider,⁸¹ and provided an advantage/disadvantage analysis for each of the three scenarios regarding their effects on the principle of equitable geographical distribution, its effects on the Member States, and any financial consequences.⁸² The General Assembly postponed consideration of this report until its resumed sixtieth session in 2006.⁸³

⁷⁶ Ibid., para. 7.

⁷⁷ Ibid., para. 9.

⁷⁸ Ibid., paras. 4,5.

⁷⁹ This report was requested by the General Assembly in G A resolution 57/305, section IX, para. 2.

⁸⁰ A/59/724.

⁸¹ Ibid. states that “(a) changes to geographical distribution by varying the weight of the membership, population and contribution factors while holding the base figure of posts constant at the current level of 2,700; (b) changes to geographical distribution by expanding the population and the base figure, so as to include groups of staff not currently considered to have geographic status while keeping the weight of the factors (membership, population and contribution) constant at the current levels, and (c) changes in the application of the system of weighted ranges.”

⁸² Ibid.

⁸³ G A decision 59/551C.

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(b) United Nations Administrative Tribunal

22. In 2000, the General Assembly adopted resolution 55/159⁸⁴ in which the General Assembly decided to expand certain principles of equitable geographical distribution to the members of the United Nations Administrative Tribunal. The General Assembly recognized the need to ensure adequate representation of the “principal legal systems of the world and fair geographical representation” when appointing members to the Tribunal.⁸⁵

23. As such, the General Assembly made several changes to the Statute of the United Nations Administrative Tribunal, including the following: (1) restrictions were put in place barring two nationals of the same Member State from serving on the Tribunal simultaneously;⁸⁶ (2) term limits were placed on members of the Tribunal;⁸⁷ (3) three members of the Tribunal were allowed to refer the case to the Tribunal as a whole;⁸⁸ (4) gender-neutral language was

⁸⁴ A/55/615.

⁸⁵ G A resolution 55/159.

⁸⁶ Ibid., para. 1(a), states that “(a) Article 3, paragraph 1, shall be amended to read as follows: “The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Members shall possess the requisite qualifications and experience, including, as appropriate, legal qualifications and experience. Only three members shall sit in any particular case”[.]”

⁸⁷ Ibid., para 1(b), states that “(b) Article 3, paragraph 2, shall be amended to read as follows: “The members shall be appointed by the General Assembly for four years and may be reappointed once. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his or her predecessor’s term, and may be reappointed once”[.]”

⁸⁸ Ibid., para. 1(c), states that “(c) A new article shall be inserted as article 8, to read as follows: “Where the three members of the Tribunal sitting in any particular case consider that the case raises a significant question of law, they may, at any time before they render judgment, refer the case for consideration by the whole Tribunal. The quorum for a hearing by the whole Tribunal shall be five members”[.]”

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introduced in the Statute;⁸⁹ and (5) other technical changes were made to the statute, as well as the provision of a transition period.⁹⁰

(c) Improvement of the Status of Women in the Secretariat

24. In the Secretary-General's January 2000 report,⁹¹ the Secretary-General provided a statistical update on the gender distribution of staff at the professional and higher levels in the UN Secretariat and organizations of the UN common system. The report stated that the percentage of women on appointments subject to geographical distribution increased from 37.7 per cent to 38.6 per cent since 1 January 1999.⁹² The Secretary-General further reported that while the improvement in women's overall representation remains slow, progress had been made in improving the representation at the senior and policy-making levels, and at the D-1 level in particular.⁹³

25. The Secretary-General, in response to General Assembly resolution 54/139, submitted a more detailed report of the status of women in the Secretariat in September of the

⁸⁹ Ibid., para. 1(e) states that “(e) [t]he pronouns “he” and “his”, wherever they appear in the Statute, shall be amended to read “he or she” or “his or her”, respectively”[.]”

⁹⁰ Ibid., paras. 1-3 state that “(d) [f]ormer articles 8 to 13 of the Statute shall be renumbered 9 to 14, and references to those articles shall be amended accordingly; [...] (f) [i]n article 7, paragraph 7, and in renumbered article 11, paragraph 4, references to “five official languages” shall be amended to read “six official languages”; [...] 2. *Also decides* that members serving on the Tribunal as at 1 January 2001 shall have their current term of office extended by one year, and that thereafter, provided that they have not served on the Tribunal for more than seven years, they may be reappointed once; 3. *Further decides* that the Statute, with effect from 1 January 2001, shall read as it appears in the annex to the present resolution.”

⁹¹ E/CN. 6/2000/4.

⁹² Ibid., para. 7.

⁹³ Ibid.

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General Assembly's fifty-fifth session.⁹⁴ In his report the Secretary-General stated that, in the decade prior to the report, the percentage of women had risen by eleven per cent of the staff on appointments subject to geographical distribution (from 28 per cent in 1990 to 39 per cent in 2000), that there had been major shifts in the number of women at the P-5 through D-2 levels, and that there were now four women Assistant Secretaries-General (as opposed to zero in 1990.)⁹⁵ Further, the Secretary-General continued to urge the heads of offices to meet the goal of 50/50 gender distribution and demonstrate progress towards this goal.⁹⁶ Finally, the Secretary-General noted that the representation of women at the D-1 level and above remained unacceptably low (24.7 per cent), well below the 50 per cent target."⁹⁷

26. After considering the above report, the General Assembly issued General Assembly resolution 55/69, in which the Assembly recalled Articles 1, 8, and 101 of the United Nations Charter, particularly the portion that stated that the "United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs[.]"⁹⁸ The General Assembly also reaffirmed the goal of achieving a 50/50 gender distribution in all categories of posts while taking into account the lack of representation and underrepresentation of women from certain

⁹⁴ A/55/399.

⁹⁵ Ibid., para. 2.

⁹⁶ Ibid., para. 8.

⁹⁷ Ibid., para. 48.

⁹⁸ G A resolution 55/69.

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countries (particularly developing countries and transitional economies), and noted its regret that the aforementioned goal would not be met by the end of 2000.⁹⁹

27. The General Assembly requested that the Secretary-General redouble his efforts to achieve the 50/50 gender distribution goal, and in order to reach that goal, requested the Secretary-General to: (1) identify and attract suitably qualified women candidates, particularly regarding developing countries, transitional economies, underrepresented and unrepresented Member States, as well as occupations in which women are unrepresented;¹⁰⁰ (2) continue to monitor closely the progress made by departments towards the goal;¹⁰¹ (3) enable the Office of the Special Adviser on Gender Issues and Advancement of Women to monitor effectively and facilitate progress in implementing departmental action plans for gender balance, by ensuring access to the required information;¹⁰² (4) increase his efforts to create a gender-sensitive work environment to support the needs of both men and women staff members;¹⁰³ and (5) “strengthen

⁹⁹ Ibid., paras. 2, 4.

¹⁰⁰ Ibid., paras. 6(a).

¹⁰¹ Ibid., para 6(b) states that the General Assembly requested the Secretary-General to, “(b) [t]o continue to monitor closely the progress made by departments and offices in meeting the goal of gender balance and to ensure that the appointment and promotion of suitably qualified women will be no less than 50 per cent of all appointments and promotions until the goal of 50/50 gender distribution is met, inter alia, through full implementation of the special measures for women and the further development of monitoring and assessment mechanisms to meet targets for improving women's representation[.]”

¹⁰² Ibid., para. 6(c).

¹⁰³ Ibid., para. 6(d) states that the General Assembly requested the Secretary-General, “(d) [t]o intensify his efforts to create, within existing resources, a gender-sensitive work environment supportive of the needs of his staff, both women and men, including the development of policies for flexible working time, flexible workplace arrangements and child-care and elder-care needs, as well as the provision of more comprehensive information to prospective candidates and new recruits on employment opportunities for spouses and the expansion of gender sensitivity training in all departments, offices and duty stations[.]”

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further the policy against harassment, including sexual harassment, inter alia, by ensuring the full implementation of the guidelines for its application at Headquarters and in the field[.]”¹⁰⁴

28. Simultaneously, the General Assembly encouraged Member States to support the efforts of the United Nations and the specialized agency to achieve the goal of 50/50 gender distribution. The General Assembly requested that the Member States identify and regularly submit more women candidates for appointment to intergovernmental, expert, and judicial bodies “by identifying and proposing national recruitment sources that will assist the organizations of the United Nations system in identifying suitable women candidates, in particular from developing countries and countries with economies in transition, and by encouraging more women to apply for positions within the Secretariat, the specialized agencies, funds and [programs] and the regional commissions, including positions in areas in which women are under-represented, such as peace keeping, peace-building and other non-traditional areas[.]”¹⁰⁵

This request would be repeated in General Assembly resolution 59/164.

29. In 2001, the Secretary-General submitted another update on the status of women in the Secretariat to the Commission on the Status of Women. The Secretary-General reported that there was a slight increase in the number of women appointed to post subject to geographical distribution over the past year (from 38.8 percent to 39.6 percent), an increase from 34.3 percent

¹⁰⁴ Ibid., para 6(e).

¹⁰⁵ Ibid., para. 9.

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to 38.3 percent concerning women at the D-1 level, and an increase in women at the D-1 and above levels on geographical appointments from 29.7 percent to 32.5 percent.¹⁰⁶

30. Pursuant to General Assembly resolution 55/69, the Secretary-General submitted report A/56/472 to the General Assembly for their consideration. In this report, the Secretary-General reported that, as of 30 June 2001, 40.2 percent of Professional and higher-level staff on geographical appoints in the Secretariat were women, and 34.6 percent of Professional and higher-level staff with appointments of one year or more in the larger population were women, and 33.5 percent of the staff in the United Nations system as a whole were women as of 1 January 2000.¹⁰⁷ The Secretary-General made a specific note that the United Nations Population Fund had the highest representation of women of all United Nations organizations at 50.4 percent.¹⁰⁸

31. During the fifty-sixth session of the General Assembly, the Assembly once again (as in resolution 55/69) reaffirmed the urgent goal of achieving 50/50 gender distribution in all categories of posts within the United Nations system.¹⁰⁹ The General Assembly also expressed its concern that there were no women acting as special representatives or envoys at that time.¹¹⁰

¹⁰⁶ E/CN.6/2001/5, para. 8.

¹⁰⁷ A/56/472.

¹⁰⁸ Ibid.

¹⁰⁹ G A resolution 56/127, para. 2, stated that the General Assembly reaffirmed “[...]the urgent goal of achieving 50/50 gender distribution in all categories of posts within the United Nations system, especially at senior and policy-making levels, with full respect for the principle of equitable geographical distribution, in conformity with Article 101, paragraph 3, of the Charter of the United Nations, and also taking into account the continuing lack of representation or underrepresentation of women from certain countries, in particular from developing countries and countries with economies in transition[.]”

¹¹⁰ Ibid.

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32. In the subsequent months, the Secretary-General continued to keep both the General Assembly and Commission on the Status of Women apprised of the statistical data. Women's representation at the Professional level and higher posts subject to geographical distribution rose to 40.4 percent in November 2001¹¹¹ and rose another 0.8 percent in the following year.¹¹² In the population of professional staff with appointments of one year or more, the percentage of women rose to 34.6113 percent in 2001 and to 35 percent the following year.¹¹⁴ However, it should be noted that while the number of women at the D-1 level increased in 2001, the percentage fell by 0.6 percent. The Secretary-General also reported that he would give priority to improving the Secretariat's harassment policies and instituting new policies to further the goal of 50/50 gender distribution. These policies were, at the time, under the review of a working group established by the Special Adviser on Gender Issues and the Advancement of Women.¹¹⁵

33. In his report submitted during the fifty-seventh session of the General Assembly, the Secretary-General mandated the introduction of a new recruitment, promotion, and placement system that was endorsed by the General Assembly in resolution 55/258. This new system that went into effect on 1 May 2002, decentralized the direct responsibility for ensuring

¹¹¹ E/CN.6/2002/7.

¹¹² A/57/447.

¹¹³ E/CN.6/2002/7.

¹¹⁴ A/57/447.

¹¹⁵ *Ibid.*, para. 47 states that “[i]n June 2001, the Special Adviser on Gender Issues and Advancement of Women formed an interagency working group (including membership of OHRM, OIOS, the Joint Appeals Board and Joint Disciplinary Committee, the Group on Equal Rights for Women at the United Nations, UNDP and UNICEF) to review and propose needed improvements in United Nations policies to prevent and handle sexual harassment complaints.”

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equal women's representation at all levels by delegating the responsibility to each of the Department/Office heads.¹¹⁶

34. The Secretary-General also drew attention to two conclusions reached by the United Nations Office of Internal Oversight Services (OIOS) regarding the slow advancement towards gender equality at the professional and higher levels.¹¹⁷ The Secretary-General reported that OIOS had confirmed that “the process has been very slow; men have been more likely to be hired, promoted, and reappointed, particularly at P-4 to D-2 levels.”¹¹⁸ Further, the Secretary-General reported that OIOS stated that, “there has been an increase in the proportion of women separating from the Organization, from 42 per cent in 1998, to 48 per cent in 2001. The recruitment trend for women does not even match the separation trend, which indicates that the Organization is unlikely to meet its gender parity target without concentrated efforts to recruit females and retain the female staff currently employed”. The report concluded that “more attention needs to be given to recruiting and promoting women at the higher levels and to counteract the rising separation of women from the Organization.”¹¹⁹

35. In its resolution 57/180, the General Assembly welcomed the 4 percent increase in the number of women at the D-2 level, bringing the total percentage of women at that level to

¹¹⁶ Ibid., para. 37 states that “[u]nder this new system, each head of Department/Office has decentralized and direct responsibility for ensuring equal women's representation at all levels as well as for career development for staff up to the D-2 level, taking into account those special measures for women which still apply. As such, departmental focal points should be refocused to support the heads of departments in meeting their targets. The Central Review Bodies will ensure adherence to the prescribed procedures and the substance of progress is to be monitored by OHRM.”

¹¹⁷ Ibid., para. 55.

¹¹⁸ A/56/956.

¹¹⁹ A/57/447.

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22.3 percent, but expressed concern that the overall percentage of women at senior levels had dropped 2 percent (to 10.5 percent) since 1998.¹²⁰ The General Assembly expressed further concern that only one of the fifty-one representatives and envoys of the Secretary-General was a woman, that the number of women heading United Nations agencies dropped from six to three, and that the number of women assigned to peacekeeping missions had declined as well.¹²¹ Once again, the General Assembly reaffirmed the urgent goal of achieving the sought after 50/50 gender distribution.¹²²

36. Through his 2003 report to the Commission on the Status of Women, the Secretary-General provided the Commission with the statistical updates discussed above that he had previously submitted to the General Assembly and updated the Commission on the new recruitment, promotion and placement system that went into effect on 1 May 2002, and informed the Commission that “[p]riority [would] also be assigned to finalization of the user-friendly guidelines on sexual harassment that are under review by an inter-agency working group established in June 2001 by the Special Adviser on Gender Issues and Advancement of Women.”¹²³

37. In response to General Assembly resolution 57/180, the Secretary-General submitted a report on the status of women in the UN system in September 2003.¹²⁴ As of 30 June 2003, the percentage of women in posts subject to geographical distribution rose to 41.8 percent

¹²⁰ G A resolution 57/180.

¹²¹ Ibid.

¹²² Ibid.

¹²³ E/CN.6/2003/8.

¹²⁴ A/58/374.

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and the percentage of women in the Professional and higher level categories with appointments of one year or more rose to 35.6 percent.¹²⁵

38. In early 2003, the Secretary-General wrote to all heads of departments and offices in the Secretariat, expressing concern about the slow growth rate of the percentage of women in the Secretariat, and emphasized the importance of reaching the 50/50 gender balance goal.¹²⁶

Further:

“[the] Office of the Under-Secretary-General for Management, in collaboration with the Office of Human Resources Management and the Office of the Special Adviser on Gender Issues and Advancement of Women, has formulated a project to strengthen the Secretary-General’s efforts to achieve gender balance by adopting a more coordinated and integrated approach to the issue. The strategy includes the use of an integrated set of interventions to tackle gender balance on multiple fronts at the organizational level. The purpose of the project is to set and achieve verifiable goals to ensure that the gender balance targets are attained by 2006.”¹²⁷

39. Additionally, the Secretary-General had stated that with the new and creative approaches being explored by the Office of Human Resources Management and the new responsibility of program managers for staffing decisions, new strategies and methods needed to be developed to ensure that effective special measures were better adapted to the features of the then-new staff selection procedures in order to achieve the desired gender parity.¹²⁸

40. In General Assembly resolution 58/144, the General Assembly requested the Secretary-General to perform a number of tasks in order to further the goal of a 50/50 gender

¹²⁵ Ibid.

¹²⁶ Ibid., para. 47.

¹²⁷ Ibid., para. 48.

¹²⁸ Ibid.

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distribution.¹²⁹ The General Assembly requested the Secretary-General: (1) “[t]o continue to develop innovative recruitment strategies to identify and attract suitably qualified women candidates, particularly from and in developing countries and countries with economies in transition and other Member States that are unrepresented or underrepresented in the Secretariat, and in occupations in which women are underrepresented;”¹³⁰ (2) to encourage the United Nations system and its agencies and departments to more effectively disseminate information about employment opportunities for women;¹³¹ (3) to continue to monitor closely the progress made by departments and offices in meeting the goal of gender balance;¹³² (4) “to strongly encourage heads of departments and offices to continue selecting female candidates when their qualifications are the same as, or better than, those of male candidates, and to effectively encourage, monitor and assess the performance of managers in meeting targets for improving women’s representation;”¹³³ (5) to encourage consultation by heads of departments and offices with departmental focal points on women during the selection process;¹³⁴ (6) “[t]o extend

¹²⁹ G A resolution 58/144.

¹³⁰ Ibid., para. 6(a).

¹³¹ Ibid., para. 6(b) states that the General Assembly requested the Secretary-General “[t]o encourage the United Nations system and its agencies and departments to make more effective use of existing information technology resources and systems and other established methods to disseminate information about employment opportunities for women and to better coordinate rosters of potential women candidates[.]”

¹³² Ibid., para. 6(c) states that the General Assembly requested the Secretary-General “[t]o continue to monitor closely the progress made by departments and offices in meeting the goal of gender balance, to ensure that the appointment and promotion of suitably qualified women represents at least 50 per cent of all appointments and promotions until the goal of 50/50 gender distribution is met[.]”

¹³³ Ibid., para. 6(d).

¹³⁴ Ibid., para. 6(e) states that the General Assembly requested the Secretary-General “[t]o encourage consultation by heads of departments and offices with departmental focal points on women during the

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ongoing training and sensitization of managers on gender balance issues;”¹³⁵ (7) “[t]o enable the Office of the Special Adviser on Gender Issues and Advancement of Women to effectively contribute to, monitor and facilitate the setting and implementation of gender targets in human resource action plans, including by ensuring access to the information required to carry out that work;”¹³⁶ (8) to intensify his efforts to create, within existing resources, a gender-sensitive work environment supportive of the needs of his staff, both women and men, by various means;¹³⁷ and (9) “[t]o continue to work to strengthen further the policy against harassment, including sexual harassment, by, inter alia, ensuring the full implementation of the guidelines for its application at Headquarters and in the field[.]”¹³⁸

41. During its fifty-ninth session, under its standing mandate to review the status of women in the organizations of the common system, the International Civil Service Commission (ICSC) reviewed a report submitted by its secretariat.¹³⁹ The preliminary findings of the study by the secretariat of the ICSC found that, due to a number of factors (including the competing

selection process and to ensure that the focal points are designated at a sufficiently high level and enjoy full and effective access to senior management[.]”

¹³⁵ Ibid., para. 6(f).

¹³⁶ Ibid., para. 6(g).

¹³⁷ Ibid., para. 6(h) states that the General Assembly requested the Secretary-General “[t]o intensify his efforts to create, within existing resources, a gender-sensitive work environment supportive of the needs of his staff, both women and men; including by actively pursuing appropriate work/life policies, such as flexible working time, flexible workplace arrangements, career development, mentoring [programs] and childcare and elder-care needs, as well as through the provision of more comprehensive information to prospective candidates and new recruits on employment opportunities for spouses, the provision of support for the activities of women’s network and organizations within the United Nations system and the expansion of gender-sensitivity training in all departments, offices and duty stations, including more information and training of staff and managers on the benefits of the work/life policies on productivity and effectiveness[.]”

¹³⁸ Ibid., para. 6(i).

¹³⁹ A/59/30 (Vol. I).

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recruitment objective of geographical balance), the recruitment system should be more proactive and targeted in order to advance the goal of achieving 50/50 gender balance.¹⁴⁰ Further, the study found that “women’s mobility was more likely to be restricted by work/life issues, especially family constraints and dual career issues. Unfortunately, flexible working arrangements were still perceived as a barrier to efficiency and productivity by too many managers.”¹⁴¹ There was also the preliminary perception that some staff managers were not sufficiently held accountable for gender parity targets.¹⁴²

42. The ICSC joined the General Assembly in expressing its disappointment at the slow rate of progress towards the 50/50 gender balance goal, and requested its secretariat to provide a report on further progress in 2006. This report was to include statistical data, organizations’ gender plans, and an analysis of the plans’ development, implementation, and effectiveness.¹⁴³

43. In 2003, during the fifty-seventh session of the General Assembly, the Assembly requested that the Secretary-General perform a comprehensive review of the continued underrepresentation of women in the United Nations (especially at senior levels) and to submit proposals to improve gender representation, particularly offices in which women were

¹⁴⁰ Ibid., para. 290.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Ibid., para. 297.

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underrepresented, to the General Assembly at its fifty-ninth session.¹⁴⁴ The Secretary-General submitted report A/59/263/Add.2 in fulfillment of this request.¹⁴⁵

44. In his report, the Secretary-General noted that several key initiatives had already been introduced which were designed to contribute to the improvement of gender distribution in the Secretariat.¹⁴⁶ These initiatives included, “the human resources action plans, the staff selection system, work/life policies, performance management, career development programs and gender sensitivity training.”¹⁴⁷ Further, the Secretary-General identified that the staff selection system contained a special provision that would enable women at a certain grade-level, who had been in the service of the United Nations for more than one year in the preceding two years to be considered equally with internal candidates.¹⁴⁸ Further, the Secretary-General reported that several work/life policies had been introduced and that positive experience was reported by departments and offices that had introduced flexible working arrangements.¹⁴⁹

45. In response to General Assembly resolution 58/144, the Secretary-General submitted a report on the improvement of the status of women in the United Nations system in

¹⁴⁴ G A resolution 57/305, section II, para. 41.

¹⁴⁵ A/59/263/Add.2.

¹⁴⁶ Ibid., para. 11.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid., para. 14 states that “[t]he staff selection system contains a special provision that will enable women at the P-3 or L-3 and P-4 or L-4 levels who have been in the service of the Organization for a cumulative period of at least one year, accrued over the two years immediately preceding their application to a vacancy, to be considered at the same time with internal candidates. Such women staff members who hold a current appointment of any type at the P-3 or L-3 level may be considered for vacancies at the P-4 level, and those at the P-4 or L-4 level may be considered for vacancies at the P-4 or P-5 level. This provision is also applicable to women serving with other entities in the United Nations common system.”

¹⁴⁹ Ibid., para. 17.

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September 2004.¹⁵⁰ Noting that the percentage of women in the United Nations system revealed an annual growth rate of 0.4 percent for women in the Professional and higher-level categories on appointments one year or more, and roughly 1 percent for Professional and higher-level staff in posts subject to geographical distribution, the Secretary-General pointed to the following key factors impacting the achievement of gender balance goals: “recruitment and selection processes, accountability of [program] managers, the working climate and culture in the Organization and informal barriers.”¹⁵¹

46. The Secretary-General also detailed the procedures under the then-recently developed staff selection system. Under that system, candidates included in a “list endorsed by a central review body, other than the candidate selected for a specific position, are placed on a roster of candidates pre-approved for vacancies of similar functions. Within one year of being placed on the roster, candidates may be placed against positions of their level in the same occupational group without review by the central review bodies. With this pool of pre-qualified women candidates readily available, and without the need to return to the central review body to be assigned to posts as they become available, departments should be able to advance more rapidly towards the gender balance goal.”¹⁵²

47. Subsequent to receiving the above report, the General Assembly requested that the Secretary-General and the executive heads of the organizations of the United Nations system ensure that “recruitment strategies, promotion and retention policies, career development, justice,

¹⁵⁰ A/59/357.

¹⁵¹ Ibid.

¹⁵² Ibid., para. 78.

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anti-harassment and sexual harassment policies, human resources and succession planning, work/family policies, management culture and mechanisms for managerial accountability” all serve to aid in the acceleration of progress towards the goal of 50/50 gender distribution.¹⁵³

48. The Secretary-General’s 2005 report¹⁵⁴ to the Commission on the Status of Women discussed the Beijing Declaration and the Beijing Platform for Action.¹⁵⁵ This report outlined achievements and good practices in United Nations entities in implementing the Beijing Declaration and Platform for Action (many of which have been discussed previously in this section) and, in that regard, sets forward conclusions and recommendations on those policies.¹⁵⁶

49. The Secretary-General concluded that the United Nations entities had made substantial progress in their efforts to support implementation of the Platform for Action. Specifically, most entities had developed gender policies and strategies, made institutional arrangements to facilitate implementation of those policies and ensured that gender specialist resources were in place in most entities of the United Nations system to further promote implementation. Further, awareness raising for staff members had occurred in the majority of

¹⁵³ G A resolution 59/164, para. 10.

¹⁵⁴ E/CN.6/2005/3.

¹⁵⁵ Ibid., provides a brief history of the Beijing Declaration and Platform for Action: “[t]he Beijing Declaration, adopted by the Fourth World Conference on Women in 1995, urged the United Nations system to contribute to the implementation of the Beijing Platform for Action. The Platform for Action emphasized that, in order to ensure effective implementation and enhance the work for the advancement of women at the national, subregional/regional and international levels, the United Nations system should promote an active and visible policy of gender mainstreaming, inter alia, in the monitoring and evaluation of all policies and [programs]; and that responsibility for ensuring the implementation of the Platform for Action and the integration of a gender perspective into all policies and [programs] of the United Nations system must rest at the highest levels. The regional commissions of the United Nations were requested to promote and assist the pertinent national institutions in monitoring and implementing the global Platform for Action within their mandates.”

¹⁵⁶ E/CN.6/2005/3, para. 5.

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organizations, and tools and methodologies had been developed and placed in use. However, the Secretary-General stated that despite this progress, challenges remain in implementation, including “insufficient awareness and capacity of staff, underdeveloped monitoring and evaluation of activities, poor accountability, lack of data disaggregated by sex and inadequate resource allocation.”¹⁵⁷

50. The Secretary-General also submitted a similar report to the General Assembly during its sixtieth session.¹⁵⁸ One key difference was that the report to the General Assembly also assessed attention to gender perspectives “in preparation for the forthcoming second phase of the World Summit on the Information Society to be held in Tunis in 2005, in response to paragraph 33 of resolution 59/168”.¹⁵⁹

51. In General Assembly resolution 59/250, the General Assembly encouraged the continuing efforts to achieve gender balance in appointments within the United Nations system at the headquarters and country levels in positions¹⁶⁰ that affect operational activities.¹⁶¹

52. In General Assembly resolution 60/140, the General Assembly’s final resolution concerning the Status of Women in the Secretariat during the period under review, the Assembly followed-up on the implementation of the Beijing Declaration and Platform for Action.¹⁶² In this resolution, the General Assembly requested that all bodies that deal with program and budgetary

¹⁵⁷ Ibid., para. 65.

¹⁵⁸ A/60/170.

¹⁵⁹ Ibid.

¹⁶⁰ G A resolution 59/250 states that such positions include, “resident coordinator appointments, with due regard to representation of women from developing countries and keeping in mind the principle of equitable geographic representation[.]”

¹⁶¹ G A resolution 59/250, para. 90.

¹⁶² G A resolution 60/140.

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matters (including the Committee for Program and Coordination) ensure that programs, plans and budgets visibly mainstream gender perspectives.¹⁶³

53. The General Assembly also called upon all entities of the United Nations to continue to play an active role in ensuring full, effective, and accelerated implementation of the Beijing Platform for Action by ensuring that all personnel, especially in the field, receive training and appropriate follow-up, including “tools, guidance and support, for gender mainstreaming[.]”¹⁶⁴ Finally, the General Assembly requested the Secretary-General to continue to report annually to the General Assembly, the Commission on the Status of Women, and the Economic and Social Council on the progress made in the implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session, under the item entitled “Advancement of women.”¹⁶⁵ These reports were to include information on key achievements, lessons learned, good practices, and to recommend further measures to enhance implementation.¹⁶⁶

B. Methods of Recruitment

(1) Recruitment Aspects of the Human Resources Management Reform

54. In 2000, the Secretary-General reported to the General Assembly on the recruitment aspects of the then-ongoing human resources management reform.¹⁶⁷ As part of this report, the Secretary-General prepared a brief summary of the history of the issue. Prior to the

¹⁶³ Ibid., para. 14.

¹⁶⁴ Ibid., para. 18.

¹⁶⁵ Ibid., para. 19.

¹⁶⁶ Ibid., para. 19.

¹⁶⁷ A/55/253.

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period under review, in 1994 and 1996, a strategy for the management of the human resources of the Organization was enunciated and subsequently endorsed by the General Assembly.¹⁶⁸ In 1997, the Secretary-General set out his program for reform embracing initiatives to strengthen the management systems of the Organization, including strategic changes to thoroughly review the management of human resources so as to improve the quality and performance of staff members, and to enhance the effectiveness with which the Organization's human resources were managed.¹⁶⁹

55. The General Assembly called for action on a number of the initiatives in General Assembly resolution 52/12A of 1997.¹⁷⁰ Early the next year, the Secretary-General convened a task force on Human Resources Management, which provided recommendations that the Secretary-General used extensively in his next report to the General Assembly on human resources matters.¹⁷¹ The General Assembly then noted the intentions of the Secretary-General outlined in his report and looked forward to the proposals he intended to submit to the Assembly for consideration.¹⁷² During 1999, some progress was made in carrying forward the reform in key areas of human resources management: "human resources planning; streamlined rules and procedures; recruitment, placement and promotion; mobility; contractual arrangements; administration of justice; competencies and continuous learning; performance management;

¹⁶⁸ Ibid., para. 1.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid., para. 2.

¹⁷¹ Ibid.

¹⁷² Ibid.

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career development; and conditions of service.”¹⁷³ The following paragraphs discuss the next step in this process.

56. In the aforementioned report, the Secretary-General stated that he viewed the mechanisms of “accountability, the monitoring processes and the control procedures as an integral part of the initiatives he is putting forward.”¹⁷⁴ He further stated that the then existing process used for filling posts was complex, that adequate planning was often absent, decision-making was diffused (which led to a lack of personal accountability of managers), the process was not fully trusted by staff, and the managers found it paper-intensive.¹⁷⁵

57. The Secretary-General identified the goal of introducing a system that “is based on predicted staffing needs as determined through effective human resources planning; is timely, that is, posts will be filled within a maximum of 120 days; holds managers accountable for making selection decisions based on objective, job-related criteria; facilitates mobility throughout the Secretariat; provides placement and advancement opportunities for staff based on merit; and complies with the Organization’s policies of appointment on the basis of merit, paying due regard to the principles of geographical representation and gender balance.”¹⁷⁶ Further, in discussing the next steps in the process, the Secretary-General stated that there was no need to

¹⁷³ Ibid., para. 3.

¹⁷⁴ Ibid., para. 6.

¹⁷⁵ Ibid., para. 33.

¹⁷⁶ Ibid., para. 34.

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change the Staff Regulations at that time, but he did bring to the attention of the General Assembly a revision of staff rule 104.14.¹⁷⁷

58. Later in 2000, the Secretary-General transmitted a report on the activities of the Office of Internal Oversight Services (OIOS) to the General Assembly pursuant to its resolution 54/244.¹⁷⁸ The Secretary-General reported that the Office of Human Resources Management (OHRM), in the years preceding this report, had developed many initiatives to reform the recruitment process, however, the OIOS believed that OHRM now needed to establish a strategic plan that would integrate the initiatives under a single umbrella and allow the Organization to meet the then current staffing needs and allow for a more proactive and flexible approach.¹⁷⁹ The Secretary-General reported that this form of planning was becoming increasingly important and urgent given the rising number of retirements the Organization expected to face over the coming years.¹⁸⁰

59. In order to expedite and improve the management of the recruitment process, the Secretary-General stated that the establishment of overall recruitment goals and strategies must first be examined, as well as the following tasks:¹⁸¹

“(a) Providing operational guidance for implementation of human resources targets by programme managers to achieve geographic distribution and gender balance;

¹⁷⁷ Ibid., para. 37. For more information on the proposed amendment to staff rule 104.14, *see* A/55/253, annex X.

¹⁷⁸ A/55/397.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

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- (b) Integrating individual recruitment approaches and monitoring their achievement;
- (c) Further refining benchmarks for performance monitoring on recruitment;
- (d) Conducting in-depth analyses of human resources statistics as a basis for strategic planning;
- (e) Improving recruitment processes to ensure operational efficiency and effectiveness, particularly regarding vacancy announcement circulation and roster management; [and]
- (f) Evaluating the effectiveness of the current National Competitive Examination [program] to better serve managerial needs.”¹⁸²

60. Also during the fifty-fifth session of the General Assembly, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) reported on the then-existing system of recruitment.¹⁸³ In its report, the ACABQ noted that the proposed changes in the system of recruitment, placement, and promotion were predicated on the principle that program managers must be responsible for taking the final decisions on the selection of the staff, as well as be responsible and accountable for delivering substantive results in their work programs.¹⁸⁴ The ACABQ further noted that there were a number of proposals for speeding up the process in order to allow additional screening and judgment time as to the suitability of all the qualified candidates.¹⁸⁵ These proposals included advance planning, the development of generic vacancy announcement formats, and the

¹⁸² Ibid.

¹⁸³ A/55/499.

¹⁸⁴ Ibid., para. 8.

¹⁸⁵ Ibid., paras. 10, 11.

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rostering of qualified shortlist candidates who were not chosen for the job so that they may be considered for other similar jobs.¹⁸⁶

61. In 2001, during the fifty-fifth session of the General Assembly, resolution 55/258 recognized the value of a transparent process of recruitment, placement and promotion in the Organization.¹⁸⁷ After consideration of the proposals of the Secretary-General concerning changing the system of recruitment, placement and promotion, the Assembly reiterated that all external vacancy announcements should be submitted to the permanent missions of Member States and be displayed on the notice boards on United Nations premises, and posted on the United Nations home page, and decided that if the Secretary-General deemed it to be in the best interests of the Organization, he may shorten the external vacancy deadline to 30 days (in the case of unplanned vacancies due to death or sudden departure of staff members.)¹⁸⁸ The General Assembly also requested the Secretary-General to circulate internal vacancy announcements to permanent missions when issued, and that he issue a monthly electronic vacancy bulletin, without prejudice to the traditional means of dissemination of vacancy announcements.¹⁸⁹

62. Further, the General Assembly reaffirmed its approval of secondments from government service, and reiterated that the recruitment, appointment and promotion of staff should be performed with no distinction as to race, sex, or religion.¹⁹⁰

¹⁸⁶ Ibid.

¹⁸⁷ GA resolution 55/258, section IV.

¹⁸⁸ Ibid., para. 3.

¹⁸⁹ Ibid., paras. 4,5.

¹⁹⁰ Ibid., paras. 19, 21.

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63. Finally, the General Assembly requested the Secretary-General, through OIOS, to conduct an inspection of possible discrimination due to nationality, sex, race, religion, and language in recruitment, promotion, and placement and to report his findings to the General Assembly during its fifty-sixth session.¹⁹¹

64. During the General Assembly's fifty-sixth session, the Secretary-General transmitted his report on the activities of OIOS concerning possible discrimination (the report mentioned above) to the General Assembly.¹⁹² The Secretary-General reported that, in response to the request of the General Assembly to supply this report, an inspection team was formed in the OIOS and began its work in September 2001.¹⁹³ The inspection team focused on the following:

“(a) analysing the data from a regional and gender perspective to ascertain whether it demonstrated the presence of systematic and consistent patterns; (b) reviewing the current and proposed procedures for recruitment, placement and promotion to ensure that they guaranteed fairness and objectivity in the process; and (c) examining the control mechanisms [then] in place to handle complaints of alleged discrimination in the Organization to determine their effectiveness.”¹⁹⁴

65. OIOS found some shortcomings concerning the consistency, completeness and accessibility of data that was essential for this type of review, yet found most departments and offices made every effort to assist OIOS by responding to its requests.¹⁹⁵ The results of the

¹⁹¹ Ibid., para. 23.

¹⁹² A/56/956.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

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analysis did not reveal a systematic and consistent pattern of preference or exclusion that impaired equal opportunity in recruitment, placement, or promotion for any given region over the past six years, but noted the existence of some regional differences.¹⁹⁶

66. OIOS further stated that the three mechanisms for handling cases of discrimination (the Panel on Discrimination and other Grievances, the Joint Appeals Boards and the United Nations Administrative Tribunal) needed to be strengthened.¹⁹⁷ Further, OIOS stated that the Ombudsman function that was at that time recently approved by the General Assembly should be integrated with the existing mechanisms in order to create a strong framework for addressing issues of discrimination.¹⁹⁸ Additionally, OIOS found that early attempts to resolve workplace disputes reap benefits in staff morale and the economy of resources.¹⁹⁹

67. During the fifty-seventh session of the General Assembly, the Secretary-General issued report A/57/293. The Secretary-General reported that a new staff selection system had been designed and was implemented on 1 May 2002.²⁰⁰ The new staff selection system integrated recruitment, placement, managed mobility and promotion, and was implemented after extensive consultations with Member States, staff and managers.²⁰¹ Additionally, the Secretary-

¹⁹⁶ A/56/956, states that, “[f]or some grades, for some years and in some locations, appointment, promotion and reappointment rates vary among regions. The results of the analysis by gender indicate that disparities continue to exist at the higher grades. Men are more likely than women to be recruited, promoted and reappointed at the P-4 to D-2 levels. More attention needs to be given to recruiting and promoting women at the higher levels and to counteract the rising separation rate of women from the Organization.”

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ A/57/293.

²⁰¹ Ibid.

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General reported that central review bodies had been established pursuant to General Assembly resolution 55/258 (approving the aforementioned amendment to staff rule 104.14), and that a global web-based tool for the new staff system, Galaxy, had been implemented along with the set up of an electronic help desk for staff to aide in resolving problems associated with the new system and its automated tools.²⁰² Additionally, the Secretary-General reported that the next steps in the process of recruitment, placement, and promotion would be the institutionalization of the new system including the:

- “(a) [c]ontinuation of the development of generic job profiles, including those for the General Service and related categories;
- (b) [e]nhancement of mechanisms to gather information on staff skills (much of the information is now available as a by-product of the Galaxy system in respect of staff who use it to apply for posts) and of the electronic performance appraisal system (PAS);
- (c) [s]trengthening and implementation of mechanisms for the delegation of human resources authority and its monitoring;
- (d) [f]urther development of mechanisms to promote mobility throughout the Organization, for example, managed reassignments and occupational networks.”²⁰³

68. Through its resolution 57/305 in 2003, the General Assembly stated its appreciation of the efforts by the Secretary-General on reforming human resources management in the Organization, as well as the central role played by OHRM.²⁰⁴ The General Assembly also requested that the Secretary-General, through OIOS to conduct a study of the impact of the human resources reform, particularly as it applied to the improvement of recruitment, placement,

²⁰² Ibid., paras. 29,31,33.

²⁰³ Ibid.

²⁰⁴ G A resolution 57/305, para. 1.

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promotion, and training.²⁰⁵ The General Assembly further requested the Secretary-General to develop measures in cooperation with OIOS and the Joint Inspection Unit (JIU) to prevent discrimination on the basis of “nationality, race, gender, religion or language in the United Nations as necessary.”²⁰⁶ The General Assembly requested that both these reports be submitted during its fifty-ninth session.²⁰⁷ Finally, the General Assembly welcomed the introduction of Galaxy, and requested that the Secretary-General ensure that Galaxy enhanced the transparency, efficiency, and effectiveness of the United Nations’ recruitment process.²⁰⁸

69. Pursuant to General Assembly resolution 57/305, the Secretary-General submitted a report on Human Resources Management and reviewed actions taken by the Secretary-General pursuant to his reports entitled “Renewing the United Nations: a program for reform”²⁰⁹ and “Strengthening of the United Nations: an agenda for further change,”²¹⁰ during the fifty-ninth session of the General Assembly.²¹¹ The Secretary-General requested that this report be read in conjunction with a number of previous reports.²¹²

²⁰⁵ Ibid., para. 5.

²⁰⁶ Ibid., para. 11.

²⁰⁷ Ibid., para. 5,11.

²⁰⁸ Ibid., para. 15.

²⁰⁹ A/51/950.

²¹⁰ A/57/387 and Corr.1.

²¹¹ A/59/263.

²¹² Ibid., para. 5 states that “[t]he present report should be read together with the following reports, also submitted to the Assembly at its fifty-ninth session pursuant to resolution 57/305: (a) Report of the Secretary-General on improvement of equitable geographical representation in the United Nations Secretariat (A/59/264), submitted pursuant to section II, paragraph 29; (b) Report of the Secretary-General on improvement of the status of women in the United Nations system (A/59/353), submitted pursuant to section II, paragraph 41.

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70. In this report, the Secretary-General stated that the new staff selection system (which mandated competency-based interviews to ensure the quality of selected candidates), which was applicable to positions at the G-5, G-6, and G-7, as well as the P3 to D-2 levels, was introduced on 1 May 2002.²¹³ Additionally, the Secretary-General reported that with the introduction of Galaxy, the Secretariat could create and advertise vacancies electronically on a global basis.²¹⁴ This included the submission, receipt and review of applications online, as well as the tracking of the status of applications, recording of the selection process, and the generation of reports on, for example, selection decisions, geography, gender, and the amount of applicants.²¹⁵

71. Prior to the submission of the above report, the Secretary-General also submitted a report on the activities of OIOS examining the impact of the human resources management reform, and particularly the impact of the new staff selection system, including central review bodies, mobility, performance management, career support and training, and human resources planning (pursuant to General Assembly resolution 57/305).²¹⁶

72. OIOS reported that, at that time, the human resources management reform had achieved significant successes, including a decrease in the number of days to fill a vacancy and a sharp increase in organizational focus on creating opportunities for staff mobility and career development.²¹⁷ However, OIOS stated that the potential of the reform had yet to be fully

²¹³ A/59/263, section 2, paras. 46, 55.

²¹⁴ Ibid., part E.

²¹⁵ Ibid.

²¹⁶ A/59/253.

²¹⁷ Ibid.

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realized.²¹⁸ OIOS explained that while the initiatives of OHRM had created a culture change, staff and managers were not fully committed to the nature, scope and purpose of the reform, leading to inconsistent prioritizations of responsibilities and accountability for management.²¹⁹ OIOS stated that OHRM should seek to address this problem immediately and effectively.²²⁰

73. Additionally, the Secretary-General reported that the new staff selection system had significantly enhanced opportunities to apply to vacancies, and enlarged the pool of applications. Yet, he noted that neither the quality of candidates nor career prospects for junior staff had improved, and although the central review bodies had exercised their function assertively, their effectiveness was diminished by a lack of relevant information in reviewing evaluations and proposals.²²¹

74. During the same session of the General Assembly, the ACABQ commented on the Secretariat's report²²² on Human Resources Management, the progress of the reform, and the challenges faced.²²³ The ACABQ stated that it was of the opinion that reforms as broad as were

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰ Ibid., states that, “[t]he Office of Human Resources Management should immediately and effectively address this lack of confidence in reform initiatives. An organizational focus on effective performance management and strategic planning, rather than compliance, would enhance the ultimate success of the Office’s integrated policy framework. The Office must also improve its ability systematically to measure and monitor human resources indicators.”

²²¹ Ibid.

²²² A/59/263.

²²³ A/59/ 446, para. 3 states that “[i]t has been emphasized to the Advisory Committee by the Secretariat that the process of human resources management reform involves a change in culture, and that such change takes time. The Committee is fully aware of the difficulties involved in meeting this challenge. In the opinion of the Committee, it is proper, at this point, to [analyze], on the basis of experience gained thus far, what has been achieved, what has not worked and why, and what must be

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planned at that time for human resources management must be accompanied by close cooperation between staff and management.²²⁴ The ACABQ further stated that without such cooperation, the reforms were unlikely to succeed.²²⁵ The ACABQ had received the impression that the staff/management relations had broken down over this issue, which had led to frustration and confrontation.²²⁶ The ACABQ encouraged the Secretary-General and OHRM in their efforts to take a fresh look at meaningful ways to involve staff in order to take their concerns into account in the implementation of the reform.²²⁷ The ACABQ concluded that reform should be a participatory process involving all users, as well as flexible enough to change in light of experience, and further stated that it trusted that management and staff would both make concerted efforts to work together in the best interest of the Organization.²²⁸

75. In General Assembly resolution 59/266, the General Assembly stressed the need to ensure that adequate mechanisms were in place to ensure the accountability of program managers for implementing the human resources policies and achievement of objectives contained in the contemporary human resources actions plans.²²⁹ The Assembly further emphasized that effective accountability mechanisms were an essential element of the human resources management reform and requested that the Secretary-General reconstitute the

refined or improved to expedite the process and achieve further success. It is also important to strengthen the accountability framework for the achievement of results.”

²²⁴ Ibid., para. 10.

²²⁵ Ibid.

²²⁶ Ibid..

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ G A resolution 59/266, section I, para. 7.

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Accountability Panel²³⁰ (with all the necessary tools and disciplinary authority to achieve its objective), as well as begin issuing appropriate sanctions for demonstrated mismanagement or willful neglect by managers, with a view towards strengthening the accountability system.²³¹ Additionally, the General Assembly requested that the Secretary-General fully develop the Galaxy system and ensure that it became more user-friendly.²³²

76. In its final resolution concerning the issue of recruitment during the period under review,²³³ the General Assembly noted that the human resources management targets were not being met by many departments, and further noted the establishment of the Management Performance Board to replace the Accountability Panel.²³⁴ Further, in this resolution, the General

²³⁰ ST/SGB/2000/14, section I states that the Accountability Panel “is established to ensure that the Secretariat addresses the findings of its oversight review bodies from a systemic perspective, and to reinforce existing accountability mechanism.”

²³¹ Ibid., section II, para. 10.

²³² Ibid., section I, paras. 8,10,12,14 state that the General Assembly, “[a]lso requests the Secretary-General to reconstitute the Accountability Panel so as to strengthen the internal system of accountability, including with respect to human resources policies and objectives, and to ensure that the Panel has the authority necessary to hold [program] managers accountable for their performance in achieving the objectives contained in human resources action plans; [...] 12. *Emphasizes* the importance of the participation of staff representatives in the work of the central review bodies, and requests the Secretary-General and invites staff representatives to engage in a consultative process with a view to resuming the participation of staff representatives in the work of the central review bodies; [...] 14. *Recalls its request* to the Secretary-General contained in section II, paragraph 2, of its resolution 51/226, as reiterated in section IV, paragraph 10, of its resolution 53/221, section VII of its resolution 55/258 and section III of its resolution 57/305, to enhance managerial accountability with respect to human resources management decisions, including imposing sanctions in cases of demonstrated mismanagement of staff and willful neglect of, or disregard for, established rules and procedures, while safeguarding the right of due process of all staff members, including managers, and requests the Secretary-General to report comprehensively thereon to it at its sixty-first session[.]”

²³³ G A resolution 60/238. *See also* G A resolutions 49/222 A and B, 51/226, 52/219, 52/252, 53/221, 55/258, 56/280, 57/305, 58/296, 59/266 .

²³⁴ G A resolution 60/238, paras. 2,3.

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Assembly adopted proposed changes to two staff regulations (regulation 1.2²³⁵ and 10.2²³⁶), and further noted the amendments to staff rules.²³⁷ There was no further action taken on this issue from 2000 - 2005.²³⁸

C. Conditions of Service

1. Authority Responsible for Determining the Conditions of Service

77. In 2000, the General Assembly, through the ICSC maintained a continuous review of the conditions of service of the staff of the United Nations common system.²³⁹ During the fifty-fifth session of the General Assembly, the Assembly reaffirmed its commitment to a single unified United Nations common system as the “cornerstone for the regulation and coordination

²³⁵ Ibid., Annex I, Amendments to the Staff Regulations, Regulation 1.2, states “[f]or *paragraph (n), substitute (n)* All staff members at the D-1 or L-6 level and above shall be required to file financial disclosure statements on appointment and at intervals thereafter as prescribed by the Secretary-General, in respect of themselves, their spouses and their dependent children, and to assist the Secretary-General in verifying the accuracy of the information submitted when so requested. The financial disclosure statements shall include certification that the assets and economic activities of the staff members, their spouses and their dependent children do not pose a conflict of interest with their official duties or the interests of the United Nations. The financial disclosure statements will remain confidential and will only be used, as prescribed by the Secretary-General, in making determinations pursuant to staff regulation 1.2 (m). The Secretary-General may require other staff to file financial disclosure statements as he deems necessary in the interest of the Organization.”

²³⁶ Ibid., Annex I, Amendments to the Staff Regulations, Regulation 10.2, states “[f]or *the existing text, substitute:* “The Secretary-General may impose disciplinary measures on staff members whose conduct is unsatisfactory. Sexual exploitation and sexual abuse constitute serious misconduct. The Secretary-General may summarily dismiss a member of the staff for serious misconduct”.”

²³⁷ Ibid., section II, para. 1.

²³⁸ Ibid., para. 2.

²³⁹ UN Yearbook 2000, p. 1330.

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of the conditions of service of the United Nations common system[.]”²⁴⁰ During the period under review, the General Assembly had repeatedly reaffirmed the central role of the ICSC in the regulation and coordination of the United Nations common system’s conditions of service.²⁴¹

78. During the fifty-fifth session of the General Assembly, the Secretary-General submitted a report to the General Assembly entitled “Renewing the United Nations: a program for reform,” pursuant to General Assembly resolution 54/238.²⁴² In this report, the Secretary-General recommended that the General Assembly initiate a review of the ICSC.²⁴³ The General Assembly resolution specified that the following elements must be contained in the information submitted to the Assembly: “[1] concrete and specific reasons, if any, for such a review; [2] identification of specific problems, if any, to be addressed; [3] objectives to be achieved by the review; [4] possible impact of such a review on the common system; [5] information on progress achieved as a result of previous reviews of the working methods and functioning of the Commission.”²⁴⁴

²⁴⁰ GA resolution 55/223.

²⁴¹ GA resolutions 55/223, 56/244, 57/285, 58/251, 59/276.

²⁴² A/55/526, para. 1 states that, “[the Secretary-General] recommended to the General Assembly that it initiate a review of the International Civil Service Commission, including its mandate, membership and functioning in order to increase its effectiveness in meeting the challenges facing the United Nations system of organizations. In making that proposal, the Secretary-General recognized that many of the issues involved extend beyond the United Nations Secretariat and should be considered in the context of the ongoing reform process throughout the United Nations system. In this regard the Administrative Committee on Coordination, in 1998, noted that human resources management reforms are the key to improving further the capacity of organizations to fulfill their diverse mandates effectively and efficiently; and that such reforms must uphold and strengthen the fabric of the international civil service within the framework of each organization’s particular structure and personality. Thus, the Administrative Committee on Coordination considers that the common system must be maintained and strengthened, and must become more responsive to the diverse requirements of organizations for operational flexibility.”

²⁴³ Ibid.

²⁴⁴ Ibid., para. 2.

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79. In A/55/526, the Secretary-General concluded that the review proposed by the Secretary-General and the executive heads should be seen and approached as an integral part of the reform process that was then underway.²⁴⁵ This reform process was designed to strengthen the United Nations system and its capacity to meet new and complex challenges facing the common system and the international civil service.²⁴⁶ The Secretary-General stated that the goal of this review would be to “to reinforce and modernize the common system and, in that context, to determine how the contribution of the Commission to these objectives can best be maximized.”²⁴⁷

80. The Administrative Committee on Coordination considered that in order for the proposed review to be effective, the review “should operate at a systemic level, reflect on the mission and membership of the Commission, as well as its functioning, and provide an in-depth reappraisal of the complex network of relationships built into the ICSC statute, the provisions of which have stood the test of time.”²⁴⁸ However, the Committee also noted the importance of keeping their application and related arrangements and procedures under review, in order to ensure that they continually met the provisions’ intent and were adapted to changing needs and circumstances.²⁴⁹

81. The Secretary-General further concluded the review must be independent, and carried out under the aegis and authority of the General Assembly. The Secretary-General stated

²⁴⁵ Ibid., para. 35.

²⁴⁶ Ibid., para. 36.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

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that this review should serve to enhance the leadership role of the General Assembly as the legislative organ for the common system, as well as enhance the role of the ICSC in ensuring that the strength of the common system was maintained and that ICSC had the necessary capacity and technical expertise to fulfill its ordained function.²⁵⁰ Finally, the Secretary-General invited the General Assembly to proceed with the proposed review during its fifty-fifth session (in consultation with Member States, the ICSC and its interlocutors).²⁵¹

82. On reviewing the report of the Secretary-General, the General Assembly issued resolution 56/244 in which it requested that the Secretary-General, “in close consultation with the Chairman of the International Civil Service Commission, [...] submit a timetable for the implementation of the review of the strengthening of the international civil service to the General Assembly at the main part of its fifty-seventh session.”²⁵²

83. In 2002, pursuant to General Assembly resolution 57/285, the Assembly took note of the report of the Secretary-General concerning the strengthening of the international civil service, endorsed the terms of reference of the Panel on the Strengthening of the International Civil Service (the Panel) contained in the report of the Secretary-General, requested that the Panel also comment on the main characteristics of international civil service, and invited the ICSC to comment on the findings of the Panel and to present those comments to the General Assembly during its fifty-ninth session.²⁵³

²⁵⁰ Ibid., para. 37.

²⁵¹ Ibid.

²⁵² G A resolution 56/244, section III.

²⁵³ G A resolution 57/285, paras. 1-4.

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84. Pursuant to General Assembly resolution 56/244 the Secretary-General submitted in his report,²⁵⁴ the requested timetable, and the terms of reference for and composition of the Panel.²⁵⁵ The Secretary-General stated that the Panel would submit its findings and recommendations to the Secretary-General who would report thereon to the General Assembly during its fifty-ninth session.²⁵⁶

85. The recommendations of the Panel were subsequently submitted by the Secretary-General to the General Assembly during the fifty-ninth session of the Assembly in 2004.²⁵⁷ The ICSC also issued a report commenting on the findings of the Panel.²⁵⁸

86. In general, the ICSC noted that many of the Panel's recommendations were consistent with some of the ICSC's most recent decisions.²⁵⁹ However, the ICSC commented that some of the recommendations of the Panel would, in the view of the ICSC, only serve to weaken the ICSC and the future of the International Civil Service.²⁶⁰ In fact, the ICSC commented that a few of the recommendations impact the Statute of the Commission, which had been established

²⁵⁴ A/57/612.

²⁵⁵ Ibid. states that, "1. [u]nder article 1 of its Statute, the International Civil Service Commission was established by the General Assembly of the United Nations for the regulation and coordination of the conditions of service of the United Nations common system. 2. In section III of its resolution 56/244 of 24 December 2001, the General Assembly requested the Secretary-General, in close consultation with the Chairman of the International Civil Service Commission, to submit a timetable for the implementation of the review of the strengthening of the international civil service to the Assembly at the main part of its fifty-seventh session. 3. After consultations with the Chairman of the Commission, the Secretary-General submits the terms of reference for and composition of the panel that will conduct the review as well as the requested timetable."

²⁵⁶ Ibid., para. 9.

²⁵⁷ A/59/153.

²⁵⁸ A/59/30 (Vol. II.).

²⁵⁹ Ibid.

²⁶⁰ Ibid., para. 3.

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by the General Assembly as an independent and impartial technical body, and that such a review fell outside the mandate of the Panel.²⁶¹

87. Some of the recommendations made by the Panel include the following: (1) recommendations on the process for the selection of Commission Members;²⁶² (2) the length of

²⁶¹ Ibid., para. 4, states that, “4. [a] few recommendations impact on the Statute of the Commission, which has been established by the General Assembly as an independent and impartial technical body. A review of the Statute of the Commission does not fall within the mandate of the Panel. In the Commission’s view, its independence is crucial for the realization of the objectives for which it has been established. The Commission has a unique role to advise the General Assembly on the regulation and coordination of the conditions of service of the United Nations common system, and the report should therefore have specifically addressed the ways in which the Commission should be strengthened to assist the Secretary-General and the General Assembly in meeting that objective. The comments of the Commission on each of the Panel’s recommendations are set out below.”

²⁶² Ibid., section C states that the Panel recommends that, “ (a) The Statute of the Commission be strictly applied in respect of both the qualifications and the process of consultations for membership in the Commission, as provided for in articles 3 and 4. In this connection, the Panel recommends the introduction of specific criteria, as set out in annex II below, to assist in focusing all phases of the selection process on the requirements of article 3; (b) Member States take into full consideration these requirements and criteria when submitting and electing candidates for membership in the Commission. In the first instance, the presentation of candidatures by Member States should specifically relate the background and experience of candidates to such requirements and criteria; (c) The Secretary-General draw on the recommendations above to improve the consultative process he undertakes pursuant to article 4 of the Statute, and in compiling the list of candidates for appointment provided for in that article, so as to facilitate the selection of individuals who are recognized nationally and internationally as high-level experts in different management areas and bring to the Commission an effective mix of expertise, practical knowledge and experience that will maximize its contribution as both a regulatory and an advisory body; (d) The General Assembly seek to introduce greater gender balance in the Commission membership.

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the term of office of ICSC members;²⁶³ and (3) the frequency and length of the sessions of the ICSC.²⁶⁴

88. Concerning the recommendations on the process for the selection of ICSC Members, the ICSC commented that it considered this recommendation to exceed the provisions of its Statute, since Article 3 of the Statute was very clear on the competence required of the members of the ICSC and did not need to be supplemented. Further, the ICSC stated that it found the criteria suggested by the Panel to be unrealistic, as the candidate would be required to meet all stipulated criteria. The ICSC also commented that the application of such a screening process exclusively for selection of ICSC members appeared to be inappropriate, and could place the Secretary-General in a difficult political position when vetting candidates nominated by Member States.²⁶⁵

89. Concerning the recommendations on the length of term of office of ICSC members, the ICSC commented that it could not support this recommendation due to the highly technical nature of the ICSC's work. The ICSC stated that such a recommendation would be counterproductive to the mission of strengthening the ICSC's work, as the role of the ICSC

²⁶³ Ibid., section D states that the Panel recommended that, "within the terms of the International Civil Service Commission Statute (article 5), the General Assembly introduce the understanding that future appointments to the Commission would normally be limited to two terms. Such an understanding should be put in practice in a gradual and deliberate manner that preserves continuity in the work of the Commission and allows for a smooth transition. As part of these transitional arrangements, the eligibility of current members for reappointment for another term should not be excluded."

²⁶⁴ Ibid., section E states that the Panel recommended that, "the programme of work and the duration of the Commission's sessions be reviewed in order to limit the length of each session to a maximum of 10 working days, while making greater use of informal working groups, retreats and other means of interaction between sessions."

²⁶⁵ Ibid., para. 10.

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requires continuity. The ICSC continued by stating that it was in the best interests of Member States, organizations and staff to preserve the retention of knowledge, and appeared to be an attempt to weaken Article 5 of the Statute of the ICSC.²⁶⁶

90. Finally, concerning the recommendation of the Panel to limit the ICSC's sessions to ten working days, the ICSC commented that ten days was too short a period of time given the high volume of work dealt with at each session, and the existing biennial schedule of the Fifth Committee of the General Assembly.²⁶⁷ The ICSC also noted that "contrary to the view expressed by the Panel, it is not the experience of its members that their other professional activities interfere with their work in the Commission. While the Commission could choose to work in private sessions for the sake of expediency, this direction would not foster an environment of cooperation and trust with its partners."²⁶⁸

91. Pursuant to General Assembly resolution 57/285, section IV, the Secretary-General submitted the views of the organizations of the United Nations system on the findings and recommendations of the Panel.²⁶⁹ The Secretary-General and members of the United Nations System Chief Executives Board for Coordination (CEB) welcomed resolution 57/285 which launched the Panel.²⁷⁰ Generally, the Secretary-General and the CEB members were in agreement with the Panel, and while they recognized that many of the recommendations were in

²⁶⁶ Ibid., para. 11.

²⁶⁷ Ibid., para. 12.

²⁶⁸ Ibid.

²⁶⁹ A/59/399.

²⁷⁰ Ibid.

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line with the recent practices of the ICSC, the Secretary-General and CEB members expressed their disappointment that the ICSC saw no need to formalize such improvements.²⁷¹

92. Unlike the ICSC, the Secretary-General and CEB members supported the recommendations of the Panel regarding the criteria and process for the selection of ICSC members, the length of the term of office of ICSC members, and the frequency and length of sessions of the ICSC.²⁷² The Secretary-General and CEB members stated that the recommendation of the Panel regarding the criteria for the selection of ICSC members offered criteria to illustrate the substantial experience of executive responsibility in public administration or related fields (and especially in personnel management) that the candidates should possess according to Article 3 of the ICSC's Statute.²⁷³

²⁷¹ Ibid.

²⁷² Ibid.

²⁷³ Ibid., paras. 18,19 further state that, “[i]n calling for candidatures, the Secretary-General would point to the range of competencies that are relevant to the substantial experience required of members of the Commission under the statute, thus assisting Member States in articulating the presentation of their candidates in relation to the requirements set out in the statute. The Secretary-General would thus be better able to effectively implement the request addressed to him by the Assembly, in its resolution 53/209. In turn, the expectation that the presentation of candidatures should be elaborated in relation to the requirements of the statute would facilitate a selection process at the national level and subsequent intergovernmental consultations that, within the principle of equitable geographical distribution, would give due weight to the elements of experience envisaged in the statute. 19. A selection process that focused on competencies would also greatly facilitate the task of giving practical effect to the provisions and intent of article 4 of the statute, which calls for the Secretary-General, as Chairman of CEB, to present a list of candidates after “appropriate consultation”, not only with Member States but also with the executive heads of the organizations and staff representatives, as it would make it possible for the comments the Secretary-General calls for from these parties to relate, not to the background of candidates in a vacuum, but to their relative qualifications in relation to the requirements of the statute. The consultative process, which is currently largely perfunctory, would become both more feasible and more meaningful. Organizations and staff representatives could provide greater support to Member States in their final selection process, without prejudice to the prerogative and decision-making authority of the Member States. While this process would, as the Commission comments point out, make the procedures for appointment to the Commission differ from other election processes, it is clearly what the statute

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93. Concerning the recommendation of the Panel to impose term limits on ICSC members, the Secretary-General and the CEB members found that this proposal was aimed at introducing an appropriate balance between continuity and facilitating the renewal and updating of expertise, experience, and knowledge, as well as maximizing the independence of the individuals appointed.²⁷⁴ The Secretary-General and the CEB members further stated that this recommendation should be acceptable to the General Assembly due to the effort to maximize the contribution of the ICSC to what the Panel referred to as “the introduction of cutting-edge human resources policies and practices[.]”²⁷⁵

94. Concerning the recommendation on the frequency and length of the sessions of the ICSC, the Secretary-General and CEB members welcomed such a recommendation. They stated that this would be in line with the reforms being introduced by many other bodies and would be accompanied by greater resort to working groups and other informal arrangements between sessions.²⁷⁶

intended. A competency-based and inclusive selection process would better serve both the basic intent of the provisions of articles 3 and 4 of the statute — to set up a technically highly competent and authoritative Commission whose members command universal confidence — and the intent of the Assembly in its successive calls for closer adherence to those provisions.”

²⁷⁴ Ibid., para. 21.

²⁷⁵ Ibid.

²⁷⁶ Ibid., para. 22 further stated that, “[e]xperience has shown that these informal arrangements have enabled a broader and deeper exchange of views among all interlocutors, leading to the production of such recent major Commission contributions as the code of conduct and the Framework for Human Resources Management. It would also enable senior staff from organizations to be present throughout the Commission’s sessions, which is not practically or financially feasible given the current length of the sessions.”

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95. In 2005, the High-level Committee on Management (HLCM) of the CEB addressed the report of the Panel.²⁷⁷ After the CEB heard statements from the CEB secretariat and the spokesperson of the Human Resources Network, the HLCM made several issuances.²⁷⁸ The HCLM reaffirmed the view that the strengthening of the ICSC and its functioning, as put forward in the Panel's recommendations, was of critical importance to the staff and organizations of the common system. Second, the HCLM decided to request that the executive heads convey to Member States the utmost importance of strengthening the international civil service and to urge them to support a constructive review of the recommendations of the Panel.²⁷⁹

96. Subsequent to the General Assembly receiving the reports of the Panel, it decided to postpone consideration of the Panel's report and the related comments by the Secretary-General and CEB on two different occasions (once during the fifty-ninth session and once during the sixtieth session).²⁸⁰ As such, there was no further action on this issue during the period of 2000 - 2005.

2. Entitlements of Staff

(a) Noblemaire principle

97. At the beginning of the period under review, at its fifty-fifth session, the General Assembly reaffirmed the continued application of the Noblemaire principle, and the necessity to

²⁷⁷ CEB/2005/3.

²⁷⁸ Ibid., para. 68.

²⁷⁹ Ibid., para. 69.

²⁸⁰ G A decision 59/551B and 60/551.

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ensure that the conditions of service of the United Nations common system remained competitive.²⁸¹

98. In 2004, the International Civil Service Commission (ICSC) issued a report to the General Assembly that involved an in-depth review of the Noblemaire principle and its application (the last review of the Noblemaire principle was conducted in 1995).²⁸² The ICSC recognized that the objective of the Noblemaire principle²⁸³ was clear and did not require reexamination. Instead, the ICSC focused its report on determining whether the United Nations was still competitive as an employer with the highest paid national civil service among Member States.²⁸⁴

99. The ICSC had repeatedly expressed its opinion that a focus on salaries alone would be an inappropriate measurement when seeking to determine the United Nations competitiveness as an employer. The ICSC believed that in order to properly measure the United Nations' competitiveness as an employer, the Commission would have to evaluate recruitment and retention in organizations in order to identify any difficulties that might exist in attracting and retaining highly qualified staff, however the Commission noted that the organizations had not responded to repeated requests for this information over the past decade.²⁸⁵ As such, the

²⁸¹ G A resolution 55/223, section II(A), para. 1, 2.

²⁸² A/59/30 (Vol. I), section D, para. 263.

²⁸³ *Ibid.*, para. 264, the ICSC indicated that the intent of the Noblemaire principle was to “ensure that United Nations compensation was competitive and that organizations were able to recruit from all Member States including the one with the highest-paid civil service”.

²⁸⁴ *Ibid.*, para. 264.

²⁸⁵ *Ibid.*, para. 265.

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ICSC concluded that more facts were needed before the Commission could determine whether the current application of the principle was indeed effective.²⁸⁶

100. Consequently, the ICSC reported to the General Assembly that the current practice of “using the highest-paid national civil service, combined with a reference check with international organizations, was sound.”²⁸⁷ Further, the ICSC reported that it had scheduled a total comparison between the United Nations conditions of service and the United States Federal Civil Service for 2005-2006.²⁸⁸

101. The General Assembly took note of the ICSC’s decision, as well as the need to continue to ensure competitiveness and the continuing application of the Noblemaire principle in resolution 59/268.²⁸⁹

(b) Introduction of the Euro

102. During the period under review, the ICSC considered the effect that the introduction of the euro as the official currency of certain Member States would have on the United Nations common system.²⁹⁰ During its fifty-sixth session, the General Assembly considered and approved²⁹¹ the recommendations set forth in the ICSC’s 2001 report.²⁹²

103. Through resolution 56/244, the General Assembly set the euro as the official currency for those emoluments which were at the time “set in the national currencies of the

²⁸⁶ Ibid., section D, para. 265.

²⁸⁷ Ibid. section D, para. 273.

²⁸⁸ A/59/30 (Vol. I), section D, para. 273.

²⁸⁹ G A resolution 59/268, section II, paras. 1-3.

²⁹⁰ A/56/30.

²⁹¹ G A resolution 56/244, section I(B).

²⁹² A/56/30, para. 86.

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twelve euro zone countries [...]”²⁹³ effective January 1, 2002. The General Assembly further provided for the method of conversion to the euro,²⁹⁴ approved the conversion of the education grant and children’s and secondary dependent’s allowances into the Euro for nine locations,²⁹⁵ and invited organizations to convert their General Service salary scales and allowances into the Euro where applicable.²⁹⁶

(c) Allowances and Benefits

(i) Dependency Allowance

104. In General Assembly resolution 47/216 of 1992, the General Assembly noted that the ICSC would review the level of the dependency allowances every two years,²⁹⁷ and in later years, the General Assembly further requested the ICSC to examine the methodology, rationale and scope of the allowances.²⁹⁸ During the period under review, these periodic reports occurred in 2000,²⁹⁹ 2002,³⁰⁰ and 2004.³⁰¹

105. After reviewing the 2000 report of the ICSC concerning the dependency allowance, the General Assembly accepted the recommendations of the ICSC and increased the

²⁹³ G A resolution 56/244, section I(B).

²⁹⁴ Ibid., para. 1(a), states that “the national currency amounts would be converted by applying the respective fixed conversion rates and then rounded up or down to the nearest euro [.]”

²⁹⁵ Ibid., para. 1(b), states that “[t]he converted values of the education grant for nine currency areas, and of the children’s and secondary dependent’s allowances for nine locations, will change over to the euro effective 1 January 2002, as reflected in annexes I and II to the present resolution[.]”

²⁹⁶ Ibid., para. 2.

²⁹⁷ G A resolution 47/216, section II(F), para. 2.

²⁹⁸ G A resolution 53/206 I (F) para. 4.

²⁹⁹ A/55/30.

³⁰⁰ A/57/30.

³⁰¹ A/59/30.

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children's allowance³⁰² and the secondary dependent's allowance by 11.89 per cent.³⁰³ Further, the ICSC recommended that this status quo remain in its 2002 report³⁰⁴ (a recommendation subsequently approved by the General Assembly.)³⁰⁵

106. In 2004, the ICSC had also decided to maintain the current levels of the aforementioned allowances, but did recommend that the General Assembly make one adjustment. The ICSC recommended that, "[s]tarting from the current review, the amounts of children's and secondary [dependent]'s allowances should be determined on the basis of the value of tax abatements and social security payments in the countries of the eight headquarters duty stations, including Spain[.]"³⁰⁶ In General Assembly resolution 59/268, the General Assembly accepted the ICSC's recommendations in their entirety.³⁰⁷

(ii) Education Grant

107. Prior to the period under review, the General Assembly asked the ICSC to complete a review of the methodology for the education grant, and for that report to be returned

³⁰² Including the allowance for disabled children. *See* G A resolution 55/223.

³⁰³ *Ibid.* The Assembly further noted that "[...] the review of dependency allowances carried out by the Commission reflected relevant changes in tax abatement and social legislation at the seven headquarters duty stations since 1998[.]"

³⁰⁴ ICSC Report for 2002 (A/57/30) states the following: "[...] 182. The Commission decided to recommend to the General Assembly that: (a) The children's allowance remain at its current level of US\$ 1,936 per annum; (b) The secondary [dependent]'s allowance remain at its current level of US\$ 693 per annum; (c) The current list of duty stations at which the allowances are payable in local currencies be maintained. The applicable local currency amounts of the children's and secondary [dependent]'s allowances at those duty stations should also be maintained; (d) Dependency allowances payable to eligible common staff be reduced by the amount of any direct payments received from Governments in respect of dependants."

³⁰⁵ G A resolution 57/285.

³⁰⁶ A/59/30 (Vol. I), para. 244.

³⁰⁷ G A resolution 59/268.

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during the General Assembly's fifty-fifth session in 2000.³⁰⁸ During the fifty-fifth session, the General Assembly received the report and took note of the recommendations of the ICSC.³⁰⁹ Specifically, on recommendation of the ICSC, the General Assembly urged "the organizations of the United Nations common system to harmonize their rules and regulations to ensure that the education grant is treated as a benefit payable to internationally recruited staff with expatriate status only[.]"³¹⁰

108. During the remainder of the period under review, the scope and purpose of the education grant was examined under the review of the pay and benefits system which was then in progress.³¹¹ Through General Assembly resolution 57/285,³¹² the General Assembly approved the recommendations made by the ICSC as part of its review and made adjustments to the maximum reimbursement levels for several countries and currency areas (among other adjustments).³¹³

³⁰⁸ G A resolution 54/238, section III(C).

³⁰⁹ A/55/30, para. 81 states that "[t]he Commission decided: (a) To recommend to the General Assembly that the education grant should continue to be treated as a benefit payable to internationally recruited staff with expatriate status; (b) To inform the General Assembly that it might wish to request the organizations to bring the matter of the payment of the education grant to staff members living in their own countries to the attention of their governing bodies with a view to harmonizing the staff rules and regulations along the lines of those of the United Nations; (c) To report to the General Assembly that further consideration of the scope and purpose of the education grant would best be conducted under the overall review of the pay and benefits system, which is currently under way."

³¹⁰ G A resolution 55/223, section E, para. 1.

³¹¹ A/55/30, para. 81 (c).

³¹² G A resolution 57/285, section E.

³¹³ A/57/30. The recommendations of the ICSC report included: "(a) In the following countries/currency areas in which education-related expenses are incurred, namely, Austria (euro), Italy (euro), Switzerland (Swiss franc), Spain (euro), United Kingdom (pound sterling), United States dollar in the United States and the United States dollar outside the United States, the levels of maximum admissible expenses and the maximum grant should be set as shown in annex V, table 1; [...] (c) The flat rates for boarding to be taken into account within the maximum admissible educational expenses and the additional amounts for reimbursement of boarding costs over and above the maximum grant payable to staff members at designated duty stations be revised as shown in annex V, table 2; (d) The amount of the

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109. In 2004, through General Assembly resolution 59/268, and on recommendation by the ICSC, the General Assembly raised the maximum reimbursement levels for fifteen countries and currency areas.³¹⁴ In the same resolution, the General Assembly reiterated its request for the organizations of the United Nations system to harmonize the staff rules and regulations pertaining to the education grant in order to avoid competition and promote staff mobility and asked the ICSC to report on the disparate practices then in use by the relevant civil services and other international organizations (the report to be due during the General Assembly's sixtieth session.)³¹⁵

(iii) Mission Subsistence Allowance

110. In 2003, the ICSC reviewed the criteria and practice for the payment of mission subsistence allowance in the United Nations system (based on updated information provided by its secretariat), as well as for other organizations in the United Nations system concerning staff assigned to non-family duty stations, and the special operations approach, and the extended monthly evacuation allowance.³¹⁶ Subsequently, the ICSC requested and received updates on the above information, as well as views of the organizations concerning the feasibility of

special education grant for each disabled child should be equal to 100 per cent of the revised amounts of the maximum allowable expenses for the regular grant; (e) All of the above measures should be applicable as from the school year in progress on 1 January 2003.”

³¹⁴ These nations and currency areas included Austria, Belgium, Denmark, France, Germany, Ireland, Italy, the Netherlands, Spain and Sweden, areas currently using Swiss francs, the Japanese yen, pounds sterling and United States dollars (inside and outside the United States). The levels were to be set in accordance with table 1 of annex IV to the ICSC's report. A/59/30 (Vol. I).

³¹⁵ G A resolution 59/268, paras. 2,3.

³¹⁶ A/58/30, para. 143.

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harmonizing their practices in regards to the aforementioned entitlements.³¹⁷ In the reports of the various organizations, they stressed the need to be able to retain flexibility concerning these entitlements in order to meet their diverse operational requirements.³¹⁸ After reviewing the data and taking into account the views of the various organizations, the ICSC emphasized the need to harmonize the organizations practices in regards to the aforementioned entitlements in order to avoid competition and promote mobility of staff.³¹⁹ The ICSC then requested that the organizations work towards harmonizing those policies and present a comprehensive report to the ICSC during its fifty-ninth session in 2004, and requested that its secretariat consider and report on the feasibility of linking the mission subsistence allowance rates to the daily subsistence allowance rates previously established by the ICSC.³²⁰

111. The General Assembly took note of the decision of the ICSC in General Assembly Resolution 58/251,³²¹ and no further action was taken on this matter during the period of 2000 - 2005.

(d) Pension Adjustment System

112. The United Nations Joint Staff Pension Board (UNJSPB), at the request of the Federation of Associations of Former International Civil Servants (FAFICS) considered a proposal to change the method of determining cost-of-living adjustments of pensions in award,

³¹⁷ Ibid., para. 143, 144.

³¹⁸ Ibid., para. 144.

³¹⁹ Ibid., para. 154.

³²⁰ Ibid., para. 154.

³²¹ G A resolution 58/251, section E.

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prior to the period under review.³²² The UNJSPB subsequently decided to recommend to the General Assembly that “threshold for cost-of living adjustments for pensions in award should be reduced from 3 per cent to 2 per cent, effective from the adjustments due on 1 April 2001.”³²³

113. During its fifty-fifth session, the General Assembly considered the reviews carried out by the UNJSPB³²⁴ and approved two changes in the pension adjustment system (set out in annex I of General Assembly resolution 55/224):³²⁵

“(a) [t]o lower the threshold for implementing cost-of-living adjustments of pensions in award from 3 per cent to 2 per cent, with effect from the adjustment due on 1 April 2001;
(b) [t]o modify, provisionally, paragraphs 4 and 5 of the provisions of the pension adjustment system, in order to implement [Judgment] No. 942 of the United Nations Administrative Tribunal, as described in section X, paragraphs 263 to 272, of the report of the Board, pending possible future proposals made by the Board to the General Assembly for changes in the pension adjustment system as regards adjustments of deferred retirement benefits[.]”³²⁶

114. In the aforementioned Judgment No. 942 (*Merani v. United Nations Joint Staff Pension Board*), the appellant claimed that a cost-of-living differential (COLD) should be applied to his deferred pension, pursuant to paragraphs five and six of the provisions of the pension adjustment system (explaining the application of the COLD to various pensions).³²⁷ However, the UNJSPB claimed that the COLD should not be applied to Merani’s deferred

³²² A/55/9, para. 198.
³²³ Ibid., para. 200.
³²⁴ G A resolution 55/224.
³²⁵ Ibid., section II, para 2.
³²⁶ Ibid., para 2.
³²⁷ UNAT Judgment No. 942.

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pension, because paragraph 27³²⁸ of the provisions of the pension adjustment system set forth an independent method of calculation for deferred pensions, which did not include application of the COLD.³²⁹ The United Nations Administrative Tribunal, after a close review of the provisions of the pension adjustment system, decided that because the COLD was not explicitly excepted from the calculation of deferred pensions, the COLD should be applied in the calculation of deferred pensions.³³⁰ The Tribunal therefore decided that the COLD was applicable to the deferred pension benefits of Mr. Merani, retroactive to the first date of payment and the Tribunal denied all other claims.³³¹ The General Assembly approved the UNJSPB's subsequent provisional modifications of the provisions of the pension adjustment system as detailed above.³³²

115. Pursuant to General Assembly resolution 57/286, the General Assembly had considered the reviews carried out by the Working Group of the UNJSPB, as well as the subsequent reviews by the UNJSPB, of the various aspects of the pension adjustment system as

³²⁸ A/55/9, para. 265 puts forth paragraph 27 of the provisions of the pension adjustment system as follows: "27. (a) For participants whose date of separation was before 31 December 1989, no adjustment shall be applied to deferred retirement benefits prior to the beneficiary's reaching age 50. Commencing at age 50 or the date of separation, if later, the base dollar pension under subparagraph 5 (a) above is adjusted by the United States CPI in accordance with section H above, without retroactive effect. The two-track adjustment system becomes operative on the date of commencement of the payment of the periodic benefit. At that time a local currency base amount is established by applying to the adjusted dollar amount the average exchange rate over the 36 consecutive months up to and including the month of first payment. (b) For participants separating from service on or after 31 December 1989, no adjustment shall be applied to deferred retirement benefits prior to the beneficiary reaching age 55. Commencing at age 55 or the date of separation, if later, the adjustment procedures set out in (a) above shall be applied to the deferred retirement benefits."

³²⁹ UNAT Judgment No. 942.

³³⁰ UNAT Judgment No. 942.

³³¹ Ibid.

³³² GA resolution 55/224, section II, para. 2.

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set out in the report by the UNJSPB.³³³ Subsequently, the General Assembly approved the changes in the pension adjustment system set out in annex XIII of the UNJSPB's report in principle.³³⁴ These changes would be effective when the Joint Staff Pension Fund showed a clear upward pattern of surpluses. Specifically, the changes would: “[1] [...] apply cost-of-living adjustments to deferred retirement benefits as from age 50; [and] [2] [...] apply cost-of-living differential factors to deferred retirement benefits as from the date of separation [.]”³³⁵

116. In 2004, during the fifty-ninth session of the General Assembly, the Assembly approved further changes to the pension adjustment system.³³⁶ Specifically, the General Assembly approved a phased approach in eliminating the 1.5 per cent reduction in the first consumer price index adjustments, and the addition of a provision under the “two-track pension adjustment system for an adjustable minimum guarantee at 80 per cent of the United States dollar-track amount, with the understanding that, under the two-track pension adjustment system, benefits are subject to a maximum of 110 or 120 per cent of the local currency track, depending on the date of separation from service, and that the Board will continue to review the costs/savings of all the modifications introduced since 1992 with respect to the two-track feature of the pension adjustment system and will report thereon to the General Assembly every two years on the occasion of the actuarial valuations of the Fund[.]”³³⁷

³³³ A/57/9.

³³⁴ G A Resolution 57/286.

³³⁵ Ibid.

³³⁶ G A Resolution 59/269.

³³⁷ Ibid.

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D. Administration of Justice in the United Nations

(1) Ombudsman

117. At the beginning of the period under review, the Secretary-General transmitted a Joint Inspection Unit (JIU) report on the administration of justice in the United Nations to the General Assembly.³³⁸ The main objective of the report was to review the United Nations administration of justice machinery from its legal foundation to its functioning and impact.³³⁹

118. In the report, the Inspectors found that the system for administration of justice at the United Nations was slow, costly, cumbersome, and appeared to be (in several significant ways) far less effective than it should or could be.³⁴⁰ In this report, the JIU made two primary recommendations: (1) that an Office for the Settlement of Disputes and the Administration of Justice should be created; and (2) that an Ombudsman function should be created.³⁴¹

119. The JIU recommended that an Office for the Settlement of Disputes and the Administration of Justice be created in order to increase the independence of the system of administration of justice at the United Nations.³⁴² The JIU recommended that the office should comprise of: (1) an Ombudsman function; (2) the Secretariat of the Joint Appeals Board and the Committee for Professional Responsibility (established to replace the Joint Disciplinary

³³⁸ JIU/REP/2000/1.

³³⁹ Ibid.

³⁴⁰ Ibid.

³⁴¹ Ibid.

³⁴² Ibid.

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Committee); and (3) the Office of the Coordinator of the Panel of Counsel.³⁴³ The JIU recommended that this Office would report to the Executive Office of the Secretary-General.³⁴⁴

120. The JIU also recommended the creation of an Ombudsman function in order to strengthen the system's capability for informal conciliation, mediation and negotiation.³⁴⁵ The JIU recommended that the Ombudsman function should replace the Panel on Discrimination and other Grievances.³⁴⁶

121. In August 2000, the Secretary-General issued comments on the above JIU report.³⁴⁷ Regarding the first recommendation of the JIU, the Secretary-General stated that the creation of an Office for the Settlement of Disputes and the Administration of Justice did not address the issue of how the overall structure and decision making process would change with the establishment of such an office. Additionally, the Secretary-General stated that the recommendation lacked clarity in respect of the line of authority between the different units that would be included in such an office. Further, the Secretary-General stated that it was unclear who would take the final decision on appeals, and that clarification was needed on how the specific change would improve the current system.³⁴⁸

122. Regarding the second recommendation of the JIU, the Secretary-General stated that the Secretary-General had already proposed that an ombudsman mechanism be established

³⁴³ Ibid.
³⁴⁴ Ibid.
³⁴⁵ Ibid.
³⁴⁶ Ibid.
³⁴⁷ A/55/57/Add.1.
³⁴⁸ Ibid.

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in his report on human resources management reform.³⁴⁹ The Secretary-General further stated that following an assessment of the precise responsibilities to be exercised by an ombudsman, the level, tenure and operational requirements of the proposed post would be determined by the Secretary-General. The Secretary-General would then request the General Assembly to establish and finance the post and service through the ACABQ.³⁵⁰

123. The Secretary-General also addressed the conclusion in the JIU report. The Secretary-General stated that the conclusion of the JIU regarding the lack of effective mediation by the Panel on Discrimination and other Grievances (the Panel) seemed to be in accordance with the most recent report³⁵¹ on the activities of the Panel. The Secretary-General continued and stated that the replacement of the Panel by an ombudsman appeared to be an effective means of strengthening the informal mediation process. Since the Panel was created pursuant to a General Assembly resolution,³⁵² the Secretary-General stated that he would include this issue in the human resources reform package.³⁵³

124. In ACABQ report A/55/514, the ACABQ considered the above mentioned report of the JIU.³⁵⁴ At the outset of the report, the ACABQ noted that it believed that the question of administration of justice should be considered in the context of the Secretary-General's overall

³⁴⁹ A/55/253.

³⁵⁰ A/55/57/Add.1.

³⁵¹ ST/IC/1999/79.

³⁵² G A resolution 31/26.

³⁵³ A/55/57/Add.1.

³⁵⁴ Ibid.

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human resources management reform, and went on to discuss the two recommendations made in the JIU report.³⁵⁵

125. Regarding the first recommendation in the JIU report, the ACABQ stated that it agreed with the JIU on the need for the secretariat of the Administrative Tribunal to be independent.³⁵⁶ However, ACABQ noted that the Secretary-General indicated that the purpose of the recommendation (to increase the independence of administration of justice and enhance the image and credibility of the units involved) may not be achieved by the JIU's recommendation.³⁵⁷ The ACABQ further stated that the Secretary-General questioned whether placing the secretariat of the Administrative Tribunal in the same office as the joint-staff management bodies (whose decisions are appealed to the Tribunal) would be desirable and appropriate.³⁵⁸ The Secretary-General argued that such a move needed to be further clarified in order to see how such changes would improve with existing system without compromising the independence of the Administrative Tribunal.³⁵⁹ Due to the importance attached to the independence of the secretariat of the Tribunal, the ACABQ stated that it was of the opinion that the Secretary-General should revisit the issue, while taking into account the views of the Administrative Tribunal.³⁶⁰

³⁵⁵ A/55/514.

³⁵⁶ Ibid., para. 5.

³⁵⁷ Ibid., para. 4.

³⁵⁸ Ibid.

³⁵⁹ Ibid., para. 4.

³⁶⁰ Ibid., para. 5.

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126. Regarding the second recommendation in the JIU report, the ACABQ noted that the Secretary-General also proposed to establish an ombudsman mechanism in his report³⁶¹ on human resources management.³⁶² The ACABQ further noted the Secretary-General's proposal that the ombudsman mechanism would replace the Panel on Discrimination and Other Grievances, as had been done in other funds and programs of the United Nations,³⁶³ as an effective means of strengthening the informal mediation process.³⁶⁴

127. In 2001, in General Assembly resolution 55/258, the General Assembly noted with concern that the then-current system for the administration of justice at the United Nations was slow and cumbersome, and welcomed the proposal of the Secretary-General to establish a function of ombudsman.³⁶⁵

128. In response to section XI of General Assembly resolution 55/258, the Secretary-General submitted a February report,³⁶⁶ during the fifty-sixth session of the General Assembly that included a review of the establishment of an ombudsman function.³⁶⁷ In his report, the Secretary-General stated that the Staff Management Coordination Committee (SMCC) recommended that there should be a clear reporting line of the Ombudsman to the Secretary-General in order to preserve the independence and ensure the effectiveness of the function.³⁶⁸

³⁶¹ A/55/253.

³⁶² A/55/514, para. 7.

³⁶³ See A/55/514, para. 7. Such as the United Nations Development Program and the United Nations Children's Fund.

³⁶⁴ Ibid.

³⁶⁵ G A resolution 55/258, section XI, paras. 2,3.

³⁶⁶ A/56/800.

³⁶⁷ Ibid.

³⁶⁸ Ibid.

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Further, the Secretary-General identified the scope of the Ombudsman's function and stated that because the Ombudsman was a new function, he believed that it was advisable to gain some experience and an appreciation of the volume of work involved in order to determine whether there is a need for additional support to the function, and if so, to develop a broader system in light of the gained experience.³⁶⁹ Further, the Secretary-General stated that "the establishment of the full-time function of the Ombudsman will strengthen the informal mediation process and, as a result, will replace the panels on discrimination and other grievances[.]"³⁷⁰

129. Pursuant to General Assembly resolution 56/253, the General Assembly decided to establish the position of Ombudsman at the level of Assistant Secretary-General in the Office of the Secretary-General, to be supported by a P-4 level legal officer, in lieu of "the D-2 and P-4 posts originally proposed under section 27A, Office of the Under-Secretary-General for Management, and requests the Secretary-General to submit a report on the adequate level of the post in the future[.]"³⁷¹

³⁶⁹ Ibid., section III, para. 28, states that, "[t]he Secretary-General has endorsed the SMCC recommendation that the terms of reference of the Ombudsman would be as set out in annex II to the present report. Moreover, the Ombudsman, while based at Headquarters, would service all duty stations, including field missions. As it is a new function, the Secretary-General considers it advisable to gain some experience and an appreciation of the volume of work involved in order to determine whether there is a need for additional support to the function, and if so, to develop a broader system in the light of the experience gained. Following the appointment of the first Ombudsman, all staff will be informed of the role and functions of the Ombudsman and of the ways in which they can bring matters of concern to his or her attention."

³⁷⁰ Ibid., para. 29.

³⁷¹ G A resolution 56/253, section I, para. 79.

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130. In 2002, the United Nations Chief Executives Board (CEB) commented on a JIU report³⁷² that was prepared earlier in the year pursuant to General Assembly resolution 55/258.³⁷³ In responding to this report, the CEB members stated that the Secretary-General had fulfilled his commitment to enhance mediation and conciliation at the United Nations, by the establishment of the Office of the Ombudsman on 25 October 2002, pursuant to General Assembly resolutions 55/258 and 56/253.³⁷⁴ Further, the CEB members stated that the Ombudsman had been appointed, and a Secretary-General's bulletin³⁷⁵ had been promulgated on the subject.³⁷⁶ The CEB members also stated that it would be the prerogative of the Ombudsman to determine the conditions under which his/her office should be complemented by a person or panel.³⁷⁷ Finally, the CEB members stated that they were of the view the report did not present "sufficient justification as to why a uniform, single, non-renewable term of five years should be adopted for the Ombudsman in all of the organizations of the United Nations system."³⁷⁸

131. In 2003, the General Assembly, during its fifty-seventh session, welcomed the establishment of the post of Ombudsman to strengthen informal mechanisms for conflict resolution³⁷⁹ and requested the Secretary-General, in consultation with the Ombudsman and staff

³⁷² JIU/REP/2002/5.

³⁷³ G A resolution 55/258, section XI, para. 10.

³⁷⁴ A/57/441/Add.1, para. 4.

³⁷⁵ ST/SGB/2002/12.

³⁷⁶ A/57/441/Add.1, para. 4.

³⁷⁷ Ibid. states that "CEB members suggest that it would be the prerogative of the Ombudsman to determine whether and under what conditions his/her office should be complemented by a person or a panel responsible for informal conciliation, mediation and negotiation functions under his/her overall guidance and supervision."

³⁷⁸ Ibid., para. 5.

³⁷⁹ G A resolution 57/307, para. 12.

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representatives to submit detailed proposals on the role and work of the Panel on Discrimination and Other Grievances for consideration by the General Assembly at its fifty-eighth session.³⁸⁰

In response to General Assembly resolution 57/307, the Secretary General submitted A/59/414 on the work and role of the Panel on Discrimination and Other Grievances.³⁸¹ In this report, the Secretary-General proposed the replacement of the Panels with the Ombudsman institution.³⁸²

The Secretary General stated that “[i]t was considered that the elimination of the Panels and the establishment of a full-time, neutral and independent Ombudsman, with flexibility of method, who could engage in informal dispute resolution, with a clear reporting line to the Secretary-General and access to all high-ranking officials, would streamline and strengthen the informal dispute resolution process.”³⁸³ In his conclusion, the Secretary-General indicated that “the Panels are not effective in their current form, though he recognizes that many staff members value their existence. If the Assembly decides to endorse option 2 above and decides to replace the Panels with the proposed joint grievance committees collocated with the Joint Appeals Board, it would be necessary that the members of the committees be provided with adequate resources in terms of training and administrative support. The implementation of option 2 would also require system-wide consultation with the staff.”³⁸⁴ The General Assembly did not take further action on this matter during the period of 2000 - 2005.

³⁸⁰ Ibid., para. 20.
³⁸¹ A/59/414.
³⁸² Ibid., para 7.
³⁸³ Ibid.
³⁸⁴ Ibid.

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132. Later, in 2005, the General Assembly stressed the importance of the Office of the Ombudsman as the primary means of informal dispute resolution,³⁸⁵ and requested that the Office of the Ombudsman continue and expand its outreach activities (in particular to local, national and General Service staff) in order to facilitate equal access and awareness-raising (bearing in mind the structure, activities and operational environment of the Organization).³⁸⁶ In the same resolution, the General Assembly requested the Secretary-General submit proposals for strengthening the Office of the Ombudsman through improved access for staff serving in different locations,³⁸⁷ invited the Office of the Ombudsman to reduce all possible delays in responding to the requests of staff in order to ensure that staff are encouraged to seek resolution of conflict in an informal way[.]³⁸⁸ and requested the Secretary-General to submit additional information on the activities of the Ombudsman in the context of his annual report.³⁸⁹

133. Later in 2005, during the sixtieth session of the General Assembly, the Secretary-General submitted his annual report A/60/376 pursuant to General Assembly resolution 59/283, which included information on the activities of the Ombudsman. This information included general statistical information on trends and comments on policies, procedures and practices that had come to the attention of the Ombudsman from 25 October 2002 to 31 August 2005.³⁹⁰ In this

³⁸⁵ G A resolution 59/283, para. 18.

³⁸⁶ Ibid., para. 19.

³⁸⁷ Ibid., para. 20.

³⁸⁸ Ibid., para. 21.

³⁸⁹ Ibid., para. 22 states that the General Assembly, “[r]equests the Secretary-General to submit, in the context of his annual report on the administration of justice in the Secretariat, information on the activities of the Ombudsman, including general statistical information and information on trends and comments on policies, procedures and practices that have come to the attention of the Ombudsman[.]”

³⁹⁰ A/60/376.

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first report of the Secretary-General to the General Assembly on the activities of the Ombudsman, the Secretary-General provided a brief history of the Office of the Ombudsman, as well as more specific information concerning general statistical trends and comments on policies, procedures and practices that had come to the attention of the Office of the Ombudsman.³⁹¹

134. Specifically, the Secretary-General stated that, since its inception, the Ombudsman's Office had been sought for assistance by nearly 1,400 staff members (roughly 4.8 per cent of the total constituency of the Office's estimated 29,000 staff members), and was consistent with recognized standards of an organizational ombudsman's office.³⁹² Further, the Secretary-General stated that after its first year of operation, the Office of the Ombudsman underwent a peer review by a team of external conflict resolution specialists.³⁹³ This review was to assess the services made available to staff members and to analyze the strengths and any shortcomings of the Office of the Ombudsman.³⁹⁴ The review had concluded, *inter alia*, that "the Office had been effectively launched and that staff members generally had their concerns resolved in a timely manner."³⁹⁵

³⁹¹ Ibid., paras. 2,3 state that, "the Office of the Ombudsman was established pursuant to General Assembly resolutions 55/258 of 14 June 2001 and 56/253 of 24 December 2001. The appointment on 26 April 2002 of the first United Nations Ombudsman, after consultation with the staff, responded to the long-identified need to further supplement the existing system of conflict resolution within the Secretariat by providing the services of an impartial and independent person to address the employment-related problems of staff members, as a means of obviating recourse to the formal grievance process. 3. The Ombudsman assumed duties on 14 July 2002, and the Office was launched on 25 October 2002 as part of United Nations Staff Day activities."

³⁹² A/60/376, para. 6.

³⁹³ Ibid., para. 7.

³⁹⁴ Ibid.

³⁹⁵ Ibid.

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135. The Secretary-General continued, and stated that while it was difficult to assess the impact of the Office of the Ombudsman, one indicator may have been the 30 per cent reduction in the number of cases submitted to the Joint Appeals Board in New York in 2003, and a further 14 per cent reduction in 2004.³⁹⁶ Further, the Secretary-General stated that feedback from staff who utilized the services of the Office of the Ombudsman indicated that the overwhelming majority of staff members were satisfied with the process, and in 70 per cent of the closed cases the staff members were satisfied with the outcome.³⁹⁷

2. United Nations Administrative Tribunal

136. In 2000, by a June note, the Secretary-General transmitted a report by the Joint Inspection Unit (JIU) on the administration of justice in the United Nations to the General Assembly.³⁹⁸ In this report, the JIU identified “[t]he main objective of the present report [to be to] review the United Nations administration of justice machinery from its legal foundation (Charter of the United Nations, staff regulations and rule[s], administrative instructions, procedures and so forth) to its functioning and impact, including the various bodies dealing with the administration of justice. The review is aimed to helping to clarify the current administration of justice system and providing concrete recommendations to adjust it to the new management requirements.”³⁹⁹ It was in this report that the JIU stated that Inspectors had found the

³⁹⁶ Ibid., para. 7.

³⁹⁷ Ibid.

³⁹⁸ JIU/REP/2000/1.

³⁹⁹ Ibid.

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administration of justice system at the United Nations to be slow, costly, cumbersome, and (in several significant ways) far less effective than it should or could be.⁴⁰⁰

137. The JIU further made several recommendations as a part of its report. Among these recommendations was the recommendation that Article 9 of the Statute of the Administrative Tribunal should be amended to eliminate the then-existing restrictions on the United Nations Administrative Tribunal's (the Tribunal) authority. The JIU recommended that the Tribunal should have full powers to "order the rescinding of the decision contested or the specific performance of the obligation invoked" when the Tribunal considered the application to be well-founded.⁴⁰¹ Additionally, the JIU recommended that the Tribunal alone should decide the appropriate amount of compensation to be paid in a given case.⁴⁰²

138. When addressing the ever increasing workload of the Tribunal and the backlog of cases before the Tribunal, the JIU recommended that the addition of a post of Deputy Secretary should strengthen the Tribunal with a view to carrying out its functions efficiently and expeditiously.⁴⁰³

139. In JIU's fifth recommendation, the Inspectors believed that further consideration should be given to reviving the advisory function of the International Court of Justice (ICJ) in the internal recourse procedure. Also, the JIU recommended that, "[i]n the meantime, closer working relationships should be encouraged between the UNAT and the other major Tribunal in the United Nations system, the International Labor Organization Administrative Tribunal (ILOAT)

⁴⁰⁰ Ibid.

⁴⁰¹ Ibid.

⁴⁰² Ibid.

⁴⁰³ Ibid.

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with a view to rationalizing their competence and jurisdiction and harmonizing their jurisprudence.”⁴⁰⁴

140. The Secretary-General issued his comments on the JIU report through A/55/57/Add.1.⁴⁰⁵ In his comments, the Secretary-General addressed the recommendation of the JIU concerning granting the Tribunal the authority to order specific performance or unlimited compensation.⁴⁰⁶ The Secretary-General commented that this authority would seriously restrict the Secretary-General’s authority as chief administrative officer of the Organization. The Secretary-General further commented that because the matter would require amendment of the statute of the Tribunal, it would require consideration by the General Assembly.⁴⁰⁷

141. During the fifty-fifth session of the General Assembly, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) considered both the report of the JIU,⁴⁰⁸ as well as the comments of the Secretary-General⁴⁰⁹ on said report.⁴¹⁰ In its report, the ACABQ stated that it was of the view that the question of administration of justice should be considered in the context of the Secretary-General’s then-ongoing overall human resources management reform.⁴¹¹

142. In addressing the JIU recommendation concerning granting the Tribunal the authority to order specific performance, and the Secretary-General’s comments thereon, the

⁴⁰⁴ A/55/57, JIU/REP/2000/1.

⁴⁰⁵ A/55/57/Add.1.

⁴⁰⁶ Ibid.

⁴⁰⁷ Ibid.

⁴⁰⁸ A/55/57.

⁴⁰⁹ A/55/57/Add.1.

⁴¹⁰ A/55/514.

⁴¹¹ Ibid., para. 3.

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ACABQ stated that it was of the opinion that the inability of the Tribunal to order specific performance was a serious limit on the staff's right to redress.⁴¹² The ACABQ further stated that "[a]lthough this gap has existed since the inception of the Tribunal, the Committee believes that the time has come to consider closing it, especially when a number of other far-reaching reforms in the area of human resources management are being considered."⁴¹³ In connection with this statement, the ACABQ recalled its comments on the need for an efficiently functioning system for the administration of justice as a key element of reform in A/55/499.⁴¹⁴

143. During its resumed fifty-fifth session in 2001, the General Assembly issued General Assembly resolution 55/258. In section XI of this resolution, the General Assembly decided to inscribe "Administration of justice" as an item on its provisional agenda for the fifty-sixth session.⁴¹⁵ Further, the General Assembly noted with concern that the system for the administration of justice at the United Nations was both slow and cumbersome.⁴¹⁶

144. Additionally, the General Assembly took note of the observations of the ACABQ regarding the gap between the statutes of the Tribunal and the ILOAT with respect to compensation limits and specific performance.⁴¹⁷ As such, the General Assembly requested that the Secretary-General take the measures necessary to close the gap, as appropriate, between the two statutes.⁴¹⁸ The General Assembly also made two requests to the Secretary-General for

⁴¹² Ibid., paras. 8-10.

⁴¹³ Ibid., para. 10.

⁴¹⁴ Ibid.

⁴¹⁵ G A resolution 55/258, section XI, para. 1.

⁴¹⁶ Ibid., para. 2.

⁴¹⁷ Ibid., para. 7.

⁴¹⁸ Ibid.

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making more effective the system of accountability, and the means to recover losses suffered by the Organization from the wrongful actions or gross negligence of senior officials of the United Nations.⁴¹⁹

145. In 2002, the Secretary-General submitted a report to the General Assembly outlining the status of the consideration of certain aspects of the administration of justice in the Secretariat, including measures for closing the aforementioned gap between the Tribunal's and ILOAT's statutes.⁴²⁰

146. On the question of aligning the statutes of UNAT and ILOAT, the Secretary-General, noted that the issue of specific performance should not be viewed in isolation, and pointed to several other differences between the ILOAT statute and the statute of the Tribunal (notably the selection procedures⁴²¹ and the mode of compensation for ILOAT judges and UNAT

⁴¹⁹ Ibid., paras. 8, 9 state that the General Assembly, “8. [*r*]equests the Secretary-General to establish a clear linkage between the administration of justice and the system of accountability when the decisions of the Administrative Tribunal result in losses to the Organization due to management irregularities; 9. [*r*]equests the Secretary-General to take urgent measures in accordance with financial rule 114.1 and staff rule 112.3 to recover financial losses caused to the Organization by wrongful actions or gross negligence of senior officials of the United Nations, particularly as a result of the judgements of the Administrative Tribunal, and to report thereon to the General Assembly at its fifty-seventh regular session, taking into account section IV, paragraph 10, of General Assembly resolution 53/221[.]”

⁴²⁰ A/56/800.

⁴²¹ Ibid., paras. 39, 40 states that, “[a]lthough no specific qualifications are stated for either ILOAT judges or UNAT members, except that all on each Tribunal must have different nationalities, in practice UNAT members include persons of a wide variety of backgrounds, many having had some years of service as representatives to the General Assembly (some in its Fifth Committee), while ILOAT is staffed by professional judges from the highest levels of national court systems. Under article III, paragraph 1, of its statute, ILOAT shall consist of three judges and four deputy judges, who shall all be of different nationalities. Article 3, paragraph 1, of the UNAT statute, as amended by the General Assembly in its resolution 55/159 of 12 December 2000, requires that UNAT members “possess the requisite qualifications and experience, including, as appropriate, legal qualifications and experience. 40. ILOAT judges are appointed by the International Labour Conference, after nomination by the Director-General of

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members).⁴²² The Secretary-General further stated he would reconsider his position against the changes if the statutes and procedures of the two bodies were fully harmonized.⁴²³ The Secretary-General also suggested simply raising the limit on compensation that the Tribunal could award from two to three years of the net base salary of the concerned staff member.⁴²⁴

147. Subsequent to the report of the Secretary-General, the ACABQ considered the report of the Secretary-General, along with the report of the JIU, and met at various times with representatives of the Secretary-General, members of the Tribunal, and members of the United Nations Chief Executives Board (CEB).⁴²⁵ In its report, the ACABQ recalled its previous comment in report A/55/514 (discussed above) concerning the ACABQ's support of closing the gap between that statute of the Tribunal and the statute of the ILOAT.⁴²⁶ Further, the ACABQ stated that whether or not the General Assembly endorsed the expansion of the Tribunal's power

ILO and following consultations with the ILO Staff Union and with the other organizations subject to the Tribunal; these nominations are submitted to the ILO Governing Body, which endorses them for submission to the ILO Conference, which approves them without discussion. By contrast, UNAT members are nominated by Governments, and their election in the Fifth Committee is confirmed by the General Assembly.”

⁴²² Ibid., para. 41.

⁴²³ Ibid.

⁴²⁴ Ibid., para. 43.

⁴²⁵ A/57/736, para. 1 states, “[t]he Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the administration of justice in the Secretariat (A/56/800). The Committee also had before it the report of the Joint Inspection Unit on reform of the administration of justice in the United Nations system: options for higher recourse instances (JIU/REP/2002/5), which was transmitted by the Secretary-General in document A/57/441, as well as the comments thereon of the Secretary-General and of the United Nations System Chief Executives Board for Coordination (A/57/411/Add.1) and of the United Nations Administrative Tribunal (A/C.5/57/25). During its consideration of the item, the Committee met at various times with representatives of the Secretary-General and members of the Administrative Tribunal and the Chief Executives Board.”

⁴²⁶ Ibid., para. 10.

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to grant specific performance, the ACABQ recommended that the Tribunal “be strengthened through an amendment to its statute requiring that candidates for the Tribunal possess judicial experience in the field of administrative law or its equivalent in the candidate’s national jurisdiction. This change would obviate the need for the third tier, which had been recommended by the Joint Inspection Unit.”⁴²⁷

148. Later in 2002, the Secretary-General transmitted a report of the JIU entitled “Reform of the administration of justice in the United Nations system: options for higher recourse instances”.⁴²⁸ The primary purpose of this report was to consider (in the context of the reform of the administration of justice in the United Nations system) the “possibility of establishing a higher instance [Tribunal] in respect of the binding decisions of the two main international administrative jurisdictions” (the Tribunal and ILOAT.)⁴²⁹ The JIU, in evaluating the information available, concluded that this issue demanded further consideration from a global, system-wide perspective (especially as it concerned higher instances of recourse against decisions of the lower and quasi-judicial bodies.)⁴³⁰

149. Additionally, the JIU Inspectors made no recommendation regarding the United Nations alone but decided to consider (in consultation with all the organizations) whether a higher instance tribunal with competence in a limited number of clearly-defined cases should be

⁴²⁷ Ibid., paras. 13, 14 further state that, “If the statute of the United Nations Administrative Tribunal is amended in the manner indicated above, the Advisory Committee recommends that the appointment continue to be done directly by the General Assembly in plenary.”

⁴²⁸ JIU/REP/2002/5.

⁴²⁹ Ibid.

⁴³⁰ Ibid.

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established for the whole of the United Nations system.⁴³¹ One of the major issues identified by the JIU concerned proper legal advice and representation for those staff members at a disadvantage compared with management in this respect.⁴³² The JIU stated that, at this point, the Inspectors had avoided examining substantive law in their review of the administration of justice and had instead concentrated on all aspects of procedure.⁴³³ However, during the course of their review, the Inspectors “have identified large substantive and procedural lacunae in law which may allow organizations to evade the worst consequences of improper decisions by their officials.”⁴³⁴

150. In its conclusion of the report, the JIU recalled their previous report,⁴³⁵ in which the Inspectors proposed that a separate office for the settlement of disputes and the administration of justice be established. The proposed office would be comprised of the secretariat of the Tribunal, the Office of the Ombudsman, and the secretariats of the Joint Appeals Board and the Joint Disciplinary Committee.⁴³⁶ Furthermore, the Inspectors observed “that while the Registry of the International Labour Organization Administrative Tribunal (ILOAT) is independent from the organization’s legal and administrative services, UNAT’s secretariat is under the aegis of the Office of Legal Affairs.”⁴³⁷

431 Ibid.

432 Ibid.

433 Ibid.

434 Ibid.

435 A/55/57.

436 JIU/REP/2002/5.

437 Ibid.

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151. The JIU also made a series of recommendations in addition to their above conclusions. The most notable recommendations were as follows: (1) the JIU recommended that ILOAT and the Tribunal should be enabled to mediate between parties (and that this power should be directly attributed to the tribunals so that they may resort to conciliation to resolve disputes whenever they deem necessary);⁴³⁸ (2) the JIU recommended that the statutory provisions and work procedures of ILOAT and the Tribunal should be harmonized with regard to the procedures for selecting members, competencies, jurisdiction, and case laws; the desirability of eventually merging ILOAT and the Tribunal should be considered, and the two tribunals should develop a detailed timetable for such a merger in consultation with their participating organizations;⁴³⁹ (3) the JIU recommended that, “[t]he General Assembly may wish to request the Sixth Committee to study the desirability of establishing an ad hoc panel that would be responsible for reviewing the judgments of the existing two tribunals or a future single tribunal [...]”;⁴⁴⁰ and (4) the JIU recommended that the executive heads of the organizations should ensure

⁴³⁸ Ibid., recommendation 2(b) states, “(b) [f]ollowing the example of certain judicial instances in the Member States, ILOAT and UNAT should be enabled to mediate between parties. This power should be expressly attributed to the tribunals so that, whenever deemed appropriate, they may resort to conciliation to resolve disputes, particularly those where no major legal issues are involved.”

⁴³⁹ Ibid., recommendation 3 states, “[i]n considering the desirability of eventually merging ILOAT and UNAT, the competent legislative organs of the United Nations and the ILO may wish to require the harmonization of the statutes and working procedures of the two tribunals in question, with special emphasis on the procedures for selecting their members, their competencies and jurisdictions as well as case laws; a detailed timetable for such a merger should be developed by the two tribunals in consultation with their participating organizations as appropriate.”

⁴⁴⁰ Ibid, recommendation 5 further states, “the panel in question could include the following features: (a) It should be composed of a Chairperson designated by the President of the International Court of Justice and two members designated one each by the Presidents of ILOAT and UNAT/legislative bodies of the International Labour Organization and the United Nations. The persons proposed to serve on this ad hoc panel should be eminent jurists, internationally recognized. Their term of office shall not exceed that

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collaboration with staff associations in developing “comprehensive legal insurance schemes covering legal advice and representation for staff in these procedures, on the understanding that the organizations shall contribute towards these schemes only until such time as they are self-financing.”⁴⁴¹

152. In addition to the above report by the JIU, the Secretary-General also transmitted for the consideration of the General Assembly his comments and those of the CEB (the executive heads) on the JIU report.⁴⁴² In response to the recommendation of the JIU concerning granting the Tribunal the power to mediate between parties, the executive heads stated that adding a mediation function to the Tribunals authority was not necessary, as once a case reached the Tribunal the most effective way of dealing with the dispute was through a ruling of the Tribunal.⁴⁴³ Additionally, the executive heads stated that such an expansion of the Tribunal’s power would raise a number of issues, including the need to amend the Tribunal’s statute.⁴⁴⁴

of the members of the tribunals. A screening procedure should be established to avoid that this panel becomes inundated with unfounded appeals. (b) Applications for review of the judgments of the tribunals may be founded on the following criteria: first, that the tribunal has exceeded its jurisdiction or competence; second, that the tribunal has failed to exercise jurisdiction vested in it; third, that the tribunal has erred on a question of law relating to the provisions of the United Nations Charter; fourth, that the tribunal has committed a fundamental error in procedure which occasioned a failure of justice; and fifth, that the tribunal has deviated substantially from its jurisprudence. (c) The determinations and conclusions of the ad hoc panel shall be binding on the executive heads of the organizations and on the tribunals. The ad hoc panel shall not reopen the procedure but only review, as appropriate, a judgment, so that the tribunal that has issued it shall confirm or revise it in the light of the ad hoc panel’s determinations and conclusions.”

⁴⁴¹ Ibid.

⁴⁴² A/57/441/Add.1.

⁴⁴³ Ibid., para. 6.

⁴⁴⁴ Ibid.

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153. Further, CEB members pointed out that there already existed at that time adequate opportunities and mechanisms to address staff appeals or potential appeals without the Tribunal's involvement.⁴⁴⁵ This includes the Administrative Law Unit's attempts to resolve the issue after it reviews the facts, the ability of the two parties to attempt to resolve the issue before the case reached the Tribunal, or the assistance of the Office of the Ombudsman available to the staff and the administration in resolving their disputes without resorting to formal means of resolution.⁴⁴⁶ Finally, regarding the recommendation of harmonizing the statutes, rules and practices of ILOAT and the Tribunal, the executive heads recalled a 1989 resolution by the General Assembly⁴⁴⁷ deciding to retain the existing statute of the Tribunal.⁴⁴⁸

154. In 2003, at the fifty-seventh session of the General Assembly, the Assembly expressed its regret that the "present system of administration of justice in the Secretariat continues to be slow, cumbersome and costly[.]"⁴⁴⁹ The General Assembly further requested that the Secretary-General take steps to ensure the Tribunal's independence and the separation of its secretariat from the Office of Legal Affairs, and to study the possibility of its financial independence.⁴⁵⁰ Pursuant to this resolution, the Secretary-General was to report on the aforementioned issues during the fifty-eight session of the General Assembly.⁴⁵¹ This request was

⁴⁴⁵ A/57/441/Add.1, para. 7.

⁴⁴⁶ Ibid., para. 7.

⁴⁴⁷ G A resolution 44/413.

⁴⁴⁸ A/57/441/Add.1, para. 9.

⁴⁴⁹ G A resolution 57/307, para. 3.

⁴⁵⁰ Ibid., para. 5.

⁴⁵¹ Ibid., para. 5.

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reaffirmed in General Assembly resolution 58/270, and the General Assembly requested the report be submitted during the Assembly's fifty-ninth session.⁴⁵²

155. The General Assembly also requested that the JIU submit a report that continued to study the possibility of harmonizing the statutes of the Tribunal and the ILOAT, bearing in mind the content of the report of the Secretary-General, for consideration by the General Assembly at its fifty-ninth session.⁴⁵³

156. Further, the General Assembly reiterated its two requests to the Secretary-General in General Assembly resolution 55/258 (discussed above) regarding the system of accountability and the system for recovery of losses resulting from the wrongful actions or gross negligence of senior officials of the United Nations.⁴⁵⁴ Finally, the General Assembly also decided to amend two staff rules: staff rule 110.4(a) and 111.2(i).

157. The General Assembly amended staff rule 110.4 to read: “[n]o disciplinary proceedings may be instituted against a staff member unless he or she has been notified, in writing, of the allegations against him or her and of the right to seek the assistance of counsel in his or her defense at his or her own expense, and has been given a reasonable opportunity to respond to those allegations [...], and to make similar amendments to staff rules 210.1 (b) and

⁴⁵² GA resolution 58/270.

⁴⁵³ GA resolution 57/307, para. 15.

⁴⁵⁴ Ibid., paras. 24, 25 states the General Assembly “[r]eiterates its request to the Secretary-General to establish a clear linkage between the administration of justice and responsibility and accountability in the United Nations Secretariat when decisions of the Administrative Tribunal result in losses to the Organization due to management irregularities; 25. Also reiterates its request to the Secretary-General to develop, as a matter of priority, an effective system of personal responsibility and accountability to recover financial losses to the Organization caused by management irregularities, wrongful actions or gross negligence of officials of the United Nations Secretariat that result in judgements of the Administrative Tribunal, and to report thereon to the General Assembly at its fifty eighth session[.]”

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310.1 (d);⁴⁵⁵ and amended staff rule 111.2 (i) to read: “[a] staff member may arrange to have his or her appeal presented to the panel on his or her behalf by counsel, at his or her own expense[.]”⁴⁵⁶

158. Pursuant to General Assembly resolution 57/307, the Tribunal submitted its report on its activities during the fifty-eighth session of the General Assembly in 2004. In this report, the Tribunal concluded that it supported the strengthening of the existing system of the administration of justice and saw no great merit in radically modifying the system or in creating a new system.⁴⁵⁷ As such, the Tribunal supported the proposals made by the JIU and the ACABQ on this topic.⁴⁵⁸

159. The Tribunal also stressed the importance of presenting an annual report to the General Assembly, in order to keep the Assembly informed of emerging jurisprudence, some of the main conflicts that erupt between the Administration and staff members, and allow the Tribunal to draw attention to certain administrative practices that need correction.⁴⁵⁹ The Tribunal also drew attention to a recent judgment⁴⁶⁰ which had resulted in the Administration

⁴⁵⁵ GA resolution 57/307, para. 28

⁴⁵⁶ Ibid., para. 29.

⁴⁵⁷ A/58/680, para. 32.

⁴⁵⁸ Ibid.

⁴⁵⁹ Ibid., para. 33 provides the following example: “[f]or example, the Tribunal has on several occasions suggested that the Secretary-General consider invoking staff rule 112.3, thereby deciding that the officials who violate staff regulations and administrative instructions should be held personally accountable for the monetary damages occasioned by such violations. The Tribunal has held, in its Judgements No. 358, *Sherif* (1995), and No. 887, *Ludvigsen* (1998), that invoking staff rule 112.3 would deter staff from deliberately flouting the rules and prevent the Organization from having to pay for the intentional violation of the rules by its officials.”

⁴⁶⁰ UNAT Judgement No. 1122 (24 July 2003), *Lopes Braga v. Secretary-General of the United Nations*.

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deciding to reverse its existing guidelines for the application of the staff selection system as an example of the Tribunal's contribution to the administration of justice in the United Nations.⁴⁶¹

160. During the fifty-ninth session of the General Assembly, the Secretary-General submitted his report on the possibility of financial independence of the Tribunal, as requested in resolutions 57/307 and 58/270.⁴⁶² In his report, the Secretary-General recommended that, even though the Tribunal was financially independent from the Office of Legal Affairs⁴⁶³ (though the Executive Office of Legal Affairs provided necessary administrative and logistical services to the Tribunal), in order to avoid any appearance of undue influence by the Respondent, the Tribunal and its secretariat should be included under "Section 1, Overall policymaking, direction and coordination, of the program budget" (instead of under Section 8 as it then was).⁴⁶⁴

161. The Secretary-General stated that this would address the request of the General Assembly set forth in resolution 58/270, as well as bring the Tribunal and its secretariat in line with comparable subsidiary organs of the United Nations.⁴⁶⁵ As such, the Secretary-General concluded that the General Assembly should accept his recommendations and transfer the Tribunal from Section 8 of the budget to Section 1.⁴⁶⁶

⁴⁶¹ A/58/680, para. 34.

⁴⁶² A/59/78.

⁴⁶³ Ibid., para. 6 states that, regarding the Tribunal, "separate budgetary provisions are made for its operation. These are reflected under the heading "policymaking organs" of Section 8, Office of Legal Affairs, of the program budget."

⁴⁶⁴ Ibid., para. 7.

⁴⁶⁵ Ibid., para. 8.

⁴⁶⁶ Ibid. states that the Secretary-General "[...] recommended that the General Assembly take note of the report and approve the proposal of the Secretary-General to transfer the resources of UNAT from Section 8, Office of Legal Affairs, to Section 1, Overall policymaking, direction and coordination, effective with the beginning of the new biennium 2006-2007."

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162. In 2004, the Secretary-General transmitted to the General Assembly the report of the JIU concerning the harmonization of the Tribunal and ILOAT statutes as requested in resolution 57/307.⁴⁶⁷ In this report, the JIU identified the three main gaps between the two statutes: “1. [the] selection and appointment of members of the Tribunals; 2. [the] [a]uthority of the Tribunals to order specific performance by the executive heads; and 3. [the] [l]imitations on the amount of compensation that may be awarded by the Tribunals.”⁴⁶⁸

163. The JIU then made four recommendations to guide the General Assembly in closing the gap. They were as follows:

“Recommendation 1: The General Assembly should continue to keep under review the issue of selection and appointment of members of UNAT with a view to bringing these practices into conformity with the statute and practices of ILOAT.

Recommendations 2: The General Assembly should amend article 10 of the UNAT statute to bring it into conformity with the ILOAT statute and settle the issues of specific performance and compensation limitations.

Recommendation 3: The General Assembly should continue to treat, as a matter of priority, the improvement of other elements of the process of internal justice that precede the Tribunal stage of a dispute. Those processes are slow and cumbersome; expediting and improving those measures may lead to fewer cases being brought to the Tribunal and result in less costly decisions and procedures.

Recommendation 4: The Secretary-General, in his capacity as chairman of the United Nations System Chief Executives Board for Coordination (CEB), should invite the Board to develop a mechanism to enhance cooperation and facilitate professional exchange and regular dialogue between UNAT, ILOAT and other international administrative tribunals, particularly with respect to the uniform and consistent application of case law which is the primary determinant of fair and equal systems of justice.”⁴⁶⁹

⁴⁶⁷ A/59/280.

⁴⁶⁸ Ibid., section B.

⁴⁶⁹ JIU/REP/2004/3, section C.

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164. These recommendations were welcomed by the Secretary-General, and he invited the General Assembly to take into consideration the views he had previously expressed in A/56/800 (discussed above), which remained valid with regard to the latest JIU report.⁴⁷⁰

165. In 2005, through General Assembly resolution 59/283, the Assembly expressed its regret that the steps necessary to separate the secretariat of the Tribunal from the Office of Legal Affairs were not undertaken as requested in resolution 57/307.⁴⁷¹ In light of this, the General Assembly also endorsed the proposal of the Secretary-General to transfer the resources of the Tribunal from section 8 to section 1 of the proposed program budget, effective from the start of the 2006-2007 biennium.⁴⁷² The General Assembly went further and reaffirmed paragraph 5 of resolution 57/307 and requested that the Secretary-General “guarantee the immediate independence of the Tribunal, including through ensuring the provision of administrative and logistical services that are exclusive to the secretariat of the Tribunal[.]”⁴⁷³

166. Additionally, the General Assembly decided to amend article 3, paragraph 1 of the statute of the Tribunal (to be effective 1 January 2006) as follows: “[t]he Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Members shall possess judicial experience in the field of administrative law or its equivalent within their national jurisdiction. Only three members shall sit in any particular case[.]” and stated that this would apply to the selection of new Tribunal members in 2006.⁴⁷⁴ Further, the General Assembly

⁴⁷⁰ A/59/280/Add.1.

⁴⁷¹ G A resolution 59/283, para. 35.

⁴⁷² Ibid., para. 36.

⁴⁷³ Ibid., para. 37.

⁴⁷⁴ Ibid., paras. 40,41.

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stressed the importance of the eventual harmonization of the statutes of the Tribunal and ILOAT.⁴⁷⁵ No further action towards harmonization was taken during the period of 2000 - 2005.

3. Administrative Law Unit

167. During the period under review, in General Assembly resolution 59/283,⁴⁷⁶ the General Assembly noted that the Administrative Law Unit had the multiple functions of administrative review, appeals, disciplinary matters and advisory services,⁴⁷⁷ and requested that the Secretary-General submit proposals to the General Assembly (prior to the close of the fifty-ninth session) for separating the functions of the Administrative Law Unit through the redeployment of resources, in order to avoid conflicts of interest, while taking into account the following needs: “[1] [t]o ensure the necessary means to collect evidence; [2] [t]o advise both the appellant and the respondent; [3] [t]o ensure the uniform application of administrative decisions; [4] [t]o ensure appropriate consultation with the Office of Human Resources Management of the Department of Management and legal experts; [and] [5] [t]o relay all necessary information to the Office of Human Resources [Management.]”⁴⁷⁸

⁴⁷⁵ Ibid., para. 45.

⁴⁷⁶ Ibid.

⁴⁷⁷ Ibid., para. 29.

⁴⁷⁸ Ibid., para. 30.

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168. Additionally, the General Assembly stressed that increasing managerial accountability would contribute to the elimination of the appeals cases backlog, and subsequently adopted two means to facilitate early consideration of cases.⁴⁷⁹ First, the General Assembly decided that staff members who wished to appeal an administrative decision should send a copy of their request to the executive head of their department.⁴⁸⁰ Second, the General Assembly decided that the Administrative Law Unit should clarify with managers the requirements for the respondent's reply, contributions expected from the managers, and any time limits.⁴⁸¹

169. The Secretary-General subsequently submitted his report pursuant to General Assembly resolution 59/283 later in the Assembly's fifty-ninth session. At the outset of the report, the Secretary-General stated that the request of the General Assembly for proposals to separate the functions of the Administrative Law Unit appeared to be based on the view that there was a conflict of interest, because the Administrative Law Unit handled the request for administrative review, prepared the respondent's reply, and represented the respondent in the same case.⁴⁸² The Secretary-General did not believe that a conflict of interest existed when the same unit handling requests for administrative review, also prepared the respondent's reply and represented the respondent in the same case.⁴⁸³

⁴⁷⁹ Ibid., para. 31.

⁴⁸⁰ Ibid., para. 31(a).

⁴⁸¹ Ibid., para. 31(b).

⁴⁸² A/59/883, section III para. 3.

⁴⁸³ Ibid., para. 3.

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170. The Secretary-General stated that the Administrative Law Unit essentially acts on behalf of the Administration at all times and at all stages in the appeals process.⁴⁸⁴ Further, the Secretary-General stated that this role was made clear to all parties from the initiation of the appeals process, and that it was in that capacity that the Administrative Law Unit was tasked to explore the possibility of avoiding unnecessary litigation by working with its counterparts in the Office of Human Resources Management (OHRM), or with the executive and administrative offices concerned where appropriate.⁴⁸⁵ The Secretary-General then stated that this process was not mediation or arbitration where the mediator or arbitrator would act as a neutral third party, and that it was, at that time, standard practice for staff of the Administrative Law Unit who discussed a situation with appellant or potential appellant and/or his or her counsel to remind their interlocutors that they were officials of the Administration.⁴⁸⁶

⁴⁸⁴ Ibid., para. 4 states that, “[t]he Administrative Law Unit, while functionally assigned the execution of responsibilities related to appeal matters, is an integral part of the Office of Human Resources Management (OHRM) and, within that Office, of the Division for Organizational Development. It acts on behalf of the Administration at all times and at all stages in the appeal process. This role is made clear to all parties from the initiation of the appeals process. It is in that capacity that at the review stage, or even beforehand when difficult situations occur that might give rise to litigation if not properly addressed, the Unit explores the possibility of avoiding unnecessary litigation by working with its counterparts in OHRM, or with the executive and administrative offices concerned, with regard to decisions for which authority has been delegated. It is standard practice for staff of the Unit who are called upon to discuss a situation with an appellant or potential appellant and/or his or her counsel to remind their interlocutors that they represent the Administration. This is not mediation or arbitration where the mediator or arbitrator would act as a neutral third party. Informal resolution efforts are sometimes initiated by the Unit and sometimes by the staff member or the member’s counsel, as is done in national judicial systems when opposing parties wish to explore the possibility of resolving a case outside the formal litigation process. If no mutually acceptable solution can be found, the staff member’s right to proceed to formal litigation is unimpeded.”

⁴⁸⁵ Ibid., para. 4.

⁴⁸⁶ Ibid.

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171. Concerning the five specific concerns of the General Assembly stated above, the Secretary-General commented on each of them. With respect to ensuring the necessary means to collect evidence, the Secretary-General stated that the combination of responsibilities that the Administrative Law Unit fulfilled resulted in a significant economy of resources at the stage of establishing the facts and legal issues that were involved in any particular case.⁴⁸⁷ Recognizing that this stage was an absolute necessity (without which there could have been no meaningful advice to managers, no reasonable review of the administrative decision, and no complete reply from the respondent), the Secretary-General pointed out that it appeared as though that the distribution of functions of the Administrative Law Unit met the need to ensure the necessary means to collect evidence better than if the facts had to be established by two separate offices (as would be the case if the review functions were to be separated from the other functions of the Administrative Law Unit.)⁴⁸⁸

172. With respect to advising both the appellant and the respondent, the Secretary-General explained that the Administrative Law Unit represented the respondent at all stages of the process, while the Panel of Counsel represented the appellants (the rules also allowed staff

⁴⁸⁷ Ibid., para. 5(a) states that “[t]o ensure the necessary means to collect evidence: the combination of responsibilities currently discharged by the Administrative Law Unit in matters related to the appeals process results in a significant economy of resources at the stage of establishing the facts and legal issues involved in a particular case. This stage is an absolute necessity, without which there can be no meaningful advice to managers, no reasonable review of the administrative decision and no complete reply from the respondent. From that perspective, it would appear that the present distribution of functions meets the need to ensure the necessary means to collect evidence better than if the facts have to be established in two separate offices, as would be the case if the review functions were to be separated from the others[.]”

⁴⁸⁸ Ibid., para. 5(a).

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members to be represented by counsel of their choice), and there was therefore no conflict of interest on the part of the Administrative Law Unit under the then distribution of functions.⁴⁸⁹

173. With respect to ensuring the uniform application of administrative decisions, to ensuring consultation with the OHRM and legal experts, and to relaying all necessary information to OHRM, the Secretary-General stated that because the Administrative Law Unit was an integral part of the OHRM, the Administrative Law Unit had direct and immediate access to all relevant officials, and had a variety of efficient internal means to consult, provide, and receive information within OHRM.⁴⁹⁰ As such, should the review functions be given to another office, that would result in a whole new system of communications having to be put in place that could not match the efficiency of the then existing system.⁴⁹¹ Further, the Secretary-General stated that the ability of the Administrative Law Unit to consult easily within OHRM helped to ensure the uniform application of administrative decisions.⁴⁹²

⁴⁸⁹ Ibid., para. 5(b), states that “[t]o advise both the appellant and the respondent: as stated above, the Administrative Law Unit represents the respondent at all stages of the appeals process. The Panel of Counsel represents appellants during the process. The rules also allow staff members to be represented by counsel of their choice. There is therefore no conflict of interest on the part of the Unit under the current distribution of functions[.]”

⁴⁹⁰ Ibid., para. 5(c),(d),(e), states that “[t]o ensure the uniform application of administrative decisions, to ensure consultation with OHRM and legal experts and to relay all necessary information to OHRM: As an integral part of OHRM, the Administrative Law Unit has immediate and direct access to all relevant officials and has a variety of internal and efficient means to consult and to provide or receive information within that Office. Should the review functions be given to another office, a whole new system of communications would have to be put into place. In addition, since OHRM remains the central authority within the Secretariat for the interpretation and enforcement of the Staff Regulations and Rules, the ability of the Unit to consult easily within the Office helps to ensure the uniform application of administrative decisions.”

⁴⁹¹ Ibid.

⁴⁹² Ibid.

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174. Further, the Secretary-General asserted that beyond the substantive questions of whether the separation of functions then fulfilled by the Administrative Law Unit was necessary or desirable, the Secretary-General did not consider such a separation to be possible through a redeployment of resources as requested by the General Assembly due to the structure of the Administrative Law Unit that was then in place.⁴⁹³

175. However, in the event that the General Assembly were to decide that the review functions should not continue to be fulfilled by the Administrative Law Unit, the Secretary-General asserted that the two primary options for the entity to conduct the review would be the Office of Legal Affairs or the Executive Office of the Secretary-General.⁴⁹⁴ However, the Secretary-General noted the similarity in the functions performed by the Administrative Law Unit before the Joint Appeals Board and the functions performed by the Office of Legal affairs

⁴⁹³ Ibid., section IV, paras. 6 and 7 explained that “[c]urrently, the Unit has two Professional posts in the regular budget, one at the P-5 level for the Chief of Unit and another at the P-3 level. In order to deal with the number of requests for review/appeals and disciplinary cases emanating from peacekeeping missions, two P-4 posts are provided through the support account. The Chief of Unit supervises all of the work done in the Unit and performs other managerial functions as required, in addition to dealing with appeals and disciplinary cases. Given the limited number of budgeted posts and the workload, general temporary assistance has also been provided to the Unit. An additional P-3 post has been proposed in the context of the proposed [program] budget for the biennium 2006-2007 in order to release general temporary assistance to focus on the backlog of appeals and to ensure that all cases remain current. [7] Currently there is no one person dedicated to the review function in the Administrative Law Unit; all Professional staff are expected to handle a number of cases at the same time and to prepare formal administrative reviews of decisions and responses to appeals as well as handling disciplinary cases and appearing before the Joint Appeals Board and the Joint Disciplinary Committee whenever hearings are scheduled. It would not be possible, therefore, to redeploy resources from that Unit without introducing new and substantial delays in appeals as well as in disciplinary cases and in the provision of advisory services. In addition, separation of the review function from the Unit to another office would result in a duplication of work as the facts of each case would have to be established and the legal issues understood and addressed at the review stage and then again at the litigation stage. There would not, therefore, be any decrease in the level of work that would have to be performed by the Unit. This duplication of work would require additional resources.”

⁴⁹⁴ Ibid., para. 8.

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before the Administrative Tribunal, and for that reason stated that the placement of the review functions in the Office of Legal Affairs was unlikely to address the General Assembly's concerns of a conflict of interest.⁴⁹⁵ Further, the Secretary-General stated that the conflict of interest issue would also be present if the review functions were placed in the Executive Office of the Secretary-General, because of the fact that the Secretary-General was the final authority on all administrative decisions.⁴⁹⁶

176. In his report, the Secretary-General concluded that it would not be in the interests of the Organization to separate the functions of the Administrative Law Unit. Further, the Secretary-General concluded that any issues raised by the General Assembly in General Assembly resolution 59/283 would be addressed by the systematic review of the redesign panel (that was established in the same resolution) that was seeking to ensure that the Organization had the most effective administration of justice system.⁴⁹⁷

177. During its sixtieth session in 2005, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) addressed this same matter. In ACABQ's second report it recognized the value of waiting for the redesign panel to submit its full report as put forward in General Assembly resolution 59/283.⁴⁹⁸ Consequently, ACABQ stated that any of the

⁴⁹⁵ Ibid.

⁴⁹⁶ Ibid.

⁴⁹⁷ Ibid., section V, para. 9 states, "[i]n view of the substantive and resource considerations outlined above, it is the view of the Secretary-General that it would not be in the interests of the Organization to separate the functions of the Administrative Law Unit. The Secretary-General believes that the issues raised will also be reviewed in a systematic way by the redesign panel, with a view to preparing a comprehensive solution to ensure that the Organization has the most effective administration of justice system."

⁴⁹⁸ A/60/7/Add.1, paras. 3,18.

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suggestions made by the Secretary-General in the above report would have to be re-examined after the report of the redesign panel.⁴⁹⁹ As further explained below, the redesign panel began its work on February 1, 2006 and subsequently submitted its report during the sixtieth session of the General Assembly.⁵⁰⁰

4. Review of the Internal Justice System

178. During the fifty-ninth session of the General Assembly in 2005, and pursuant to General Assembly resolution 59/283, the General Assembly requested the Secretary-General to form a “panel of external and independent experts to consider redesigning the system of administration of justice” (the Redesign Panel).⁵⁰¹ This panel was formed in order to propose a new system model for the resolution of staff grievances in the United Nations that is: (1) independent; (2) transparent; (3) effective; (4) efficient; (5) adequately resourced; and that (6) ensures managerial accountability.⁵⁰²

179. Specifically, the Redesign Panel was tasked to consider alternative systems for resolving staff grievances,⁵⁰³ consider the value of utilizing alternative forms of dispute resolution by which cases could be solved by mutual consent (such as mediation, conciliation,

⁴⁹⁹ Ibid., para. 3.

⁵⁰⁰ A/61/205.

⁵⁰¹ G A resolution 59/283, section IV, para. 47.

⁵⁰² Ibid., para. 49(a).

⁵⁰³ Ibid., para. 49(c)(i), stated that the General Assembly requested the redesign panel to “[c]onsider alternative systems for resolving staff grievances by considering other models of organizational dispute resolution, while acknowledging the uniqueness of the United Nations system, in particular the immunity of United Nations staff from national laws and thus the lack of recourse to national courts[.]”

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arbitration, and/or an ombudsman),⁵⁰⁴ identify proactive measures that could be implemented to minimize the number of disputes (such as education or training),⁵⁰⁵ examine the functioning of the Office of the Ombudsman,⁵⁰⁶ examine and develop criteria to be used in categorizing cases,⁵⁰⁷ review the functioning of the United Nations Administrative Tribunal and consider the further harmonization of its statute with that of the International Labor Organization Administrative Tribunal,⁵⁰⁸ examine the possibility of an integrated two-layer (first and second instance) integrated judicial system while taking existing structures into account,⁵⁰⁹ and examine the legal representation of the Secretary-General in the system of administration of justice.⁵¹⁰

180. This panel was to be composed of the following: a pre-eminent judge or former judge with administrative law experience; an expert in alternative dispute resolution methods; a leading legal academic in international law, a person with administrative and senior management experience in an international organization; and someone with field experience in the United

⁵⁰⁴ Ibid., para. 49(c)(ii) stated the General Assembly requested that the redesign panel, “[i]n proposing a model, consider the value of creating an effective system for handling staff complaints that involves alternative forms of dispute resolution by which cases can be settled by mutual consent, such as mediation, conciliation, arbitration and/or an ombudsman[.]”

⁵⁰⁵ Ibid., para. 49(c)(iv).

⁵⁰⁶ Ibid., para. 49(c)(v).

⁵⁰⁷ Ibid., para. 49(c)(vi).

⁵⁰⁸ Ibid., para. 49(c)(vii) the General Assembly requested the redesign panel “[r]eview the functioning of the United Nations Administrative Tribunal and examine the further harmonization of its statute and that of the International Labour Organization Administrative Tribunal with a view to further professionalizing the United Nations Administrative Tribunal[.]”

⁵⁰⁹ Ibid., para. 49(c)(viii).

⁵¹⁰ Ibid., section IV, para. 49(c)(ix).

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Nations.⁵¹¹ The panel was set to start no later than February 1 of 2006, and to submit its recommendations as a matter of priority by July 31 2006.⁵¹²

181. The redesign panel began its work in February 2006, and submitted its report⁵¹³ during the sixtieth session of the General Assembly. For more detailed information on the report, please see Section III of this Repertory of Practice.

III. ANALYTICAL SUMMARY OF PRACTICE (2006-2010)

A. Staff Selection System

182. In 2006, the Secretary-General issued report A/60/692 and Corr.1 entitled “Investing in the United Nations: for a stronger Organization worldwide.” In this report, the Secretary-General put forth a vision for comprehensive management reform, with specific proposals regarding human resources management.⁵¹⁴ One of the proposals put forward in this report specifically concerned the staff selection system of the United Nations. The Secretary-General proposed to develop a more proactive, targeted and speedy recruitment system through:

- More extensive outreach based on strategic workforce planning.
- Use of rosters of pre-screened candidates.
- Establishment of a dedicated recruitment service to support managers in their selection of staff.
- Reduction of the advertising time for vacancy announcements to 30 days.
- Expedited recruitment processes for surge needs.
- Expanded career opportunities for serving staff, and the creation of a broader pool of talent by eliminating eligibility restrictions based on contractual status, category, location or duration of service. This would include eliminating the

⁵¹¹ Ibid., section IV, para. 48.

⁵¹² Ibid., section IV, para. 50.

⁵¹³ A/61/205.

⁵¹⁴ A/61/228.

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existing restrictions for applicants to junior Professional posts that are not subject to the examination requirements.

- Revision of examinations and job profiles to match current needs.
- Strictly enforced compliance with gender and geography targets.
- Aiming to reduce average recruitment times by one half.”⁵¹⁵

182. Subsequent to this Secretary-General’s report, the General Assembly adopted resolution 60/260 in May 2006. In this resolution, the General Assembly requested the Secretary-General to submit a report at its sixty-first session providing the General Assembly with further details regarding the above proposal of the Secretary-General.⁵¹⁶

183. Three months later, the Secretary-General issued report A/61/228, in which he expressed that it was his goal to develop a more versatile, multi-skilled, mobile and experienced international civil service, to select staff on the basis of merit, demonstrated competencies, and performance, and to ensure that selection decisions were made by managers on the basis of objective, job-related criteria.⁵¹⁷ Further, the Secretary-General stated that he sought to provide more career opportunities for staff, introduce a more transparent, speedier process for filling vacancies, and achieve equitable geographical distribution and gender parity.⁵¹⁸

184. The Secretary-General also listed the achievements, as of August 2006, towards the aforementioned goals. The Secretary-General stated that a new staff selection system,

⁵¹⁵ A/60/692.

⁵¹⁶ G A resolution 60/260, section II, para. 2.

⁵¹⁷ A/61/228, section C(1), para. 48.

⁵¹⁸ Ibid.

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integrating recruitment, selection, promotion and managed mobility of staff,⁵¹⁹ had been implemented in May 2002.

185. This system introduced several new features, including the delegation of authority for selecting staff to the heads of departments (who are responsible for program delivery), the

⁵¹⁹ In the Secretary-General report entitled “[i]nvesting in the United Nations: for a stronger Organization worldwide” (A/60/692 and Corr.1), the Secretary General proposed a more integrated approach to mobility, including: (1) authority for the Secretary-General to move staff members wherever they are needed; (2) strict enforcement of current post-occupancy limits, designation of a majority of international Professional posts as rotational, and the integration of Headquarters and field operations into an Organization-wide mobility program; (3) expanded training and improved work/life conditions — the training budget should initially be doubled — costing an additional \$10 million per annum; and (4) greater opportunities for General Service mobility. In A/61/255, the Secretary-General provided details on these proposals contained in A/60/692. The General Assembly then reviewed the Secretary-General’s proposals presented in his report on investing in people (A/61/255). In its resolution 61/244, the General Assembly encouraged the Secretary-General to continue to make progress in the area of mobility and decided to approve the establishment of three new temporary positions- two P-4 and one General Service- to provide support for the work of the Secretary-General in this area. In this context, the General Assembly requested the Secretary-General report to it at the main part of its sixty-second session on clear indicators, benchmarks, number of staff, timelines and criteria for the implementation of mobility policies, taking into account the needs of the Organization and ways to protect the rights of staff in the context of the system of administration of justice. The Secretary-General responded to the Assembly in his report on the implementation of the mobility policy (A/62/215). In the same resolution, the General Assembly also requested the Secretary-General to report to it at its sixty-third session on the implemented phases of the mobility policy, along with projections for the envisaged remaining phases and an assessment of the relevant administrative and management issues. Those issues were addressed in the report of the Secretary-General on the implementation of the mobility policy (A/63/208), together with observations and recommendations on the way forward. In 2008, the General Assembly adopted resolution 63/250. In this resolution, the General Assembly stressed that the purpose of enhancing mobility was to improve the effectiveness of the Organization and to foster the skills and capacity of staff and regretted that the Secretary-General’s mobility policies failed to achieve their intended purposes. Further, the General Assembly requested the Secretary-General to submit proposals aimed at encouraging voluntary mobility of staff in the context of the review of the mobility policy, without prejudice to the different needs of duty stations and the field. In 2010, the Secretary-General issued his report A/65/305 entitled “Overview of human resources management reform”. In this report, the Secretary-General explained the progress made since the adoption of General Assembly resolution 63/250 and stated the next steps to be taken. However, the General Assembly, in its resolution 65/247, regretted that the Secretary-General did not submit proposals on a mobility policy pursuant to section VII of General Assembly resolution 63/250, and in this regard requested that comprehensive proposals be submitted to the Assembly at its sixty-seventh session.

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establishment of central review bodies (an important monitoring and accountability mechanism), the rostering of qualified shortlisted candidates for similar posts, the use of generic job profiles and the introduction of competency-based interviews as part of the evaluation of candidates.⁵²⁰

186. In report A/61/255 entitled “Investing in People” (issued two days after the above report), the Secretary-General provided details on the new human resources framework outlined in his aforementioned proposal.⁵²¹ The Secretary-General stated that the United Nations needed a system that would integrate field and Headquarters staff into one global Secretariat, as well as realign staff features with future needs.⁵²² He further stated that the overall aim was “to build a high-quality, multi-skilled and mobile workforce, with the highest standards of efficiency, competence and integrity and with due regard to geographic representation and gender balance.”⁵²³

187. According to the Secretary-General, this would include more extensive outreach based on strategic workforce planning. As such, the Organization would conduct more proactive and targeted recruitment campaigns to provide information about employment opportunities with the United Nations and to invite applications.⁵²⁴ Further, the Secretary-General proposed the use of a roster of pre-screened candidates as the primary instrument for recruitment, placement and promotion for vacancies throughout the Secretariat, including in the field, in order to expedite

⁵²⁰ A/61/228, section C(2), para. 49.

⁵²¹ A/61/255.

⁵²² Ibid.

⁵²³ Ibid., para. 33.

⁵²⁴ Ibid., para. 67.

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recruitment.⁵²⁵ In this report, the Secretary-General further explained the procedure for the development and use of the pre-screened rosters.⁵²⁶

188. The Secretary-General detailed that when a vacancy arose, the head of a department or office would be able to select a candidate from the roster for the relevant occupational grouping, which would be periodically replenished and updated to ensure that staff members had regular opportunities to apply for jobs, and that those on the roster continued to be available for recruitment.⁵²⁷ Further, the Secretary-General explained that staff members would be able to apply for placement on the rosters, which would lead to subsequent selection to posts at the same level or one level higher than their current level.⁵²⁸

189. Additionally, the Secretary-General stated that expecting heads of offices or departments to use rosters as the primary means of filling vacancies would speed up the recruiting process.⁵²⁹ However, in cases where posts were highly specialized and managers were unable to identify a suitable candidate from a roster, specific vacancy announcements would be

⁵²⁵ Ibid.

⁵²⁶ A/61/255, section III, paras. 71, 72 stated that “[o]n the basis of organizational needs identified through strategic workforce planning exercises, generic job profiles will be developed and generic vacancy announcements will be issued for different occupational groups. The qualifications and competencies of candidates — both serving staff members and external applicants — will be pre-screened by human resource officers and confirmed by expert groups. To this end, competency-based interviews will be mandatory for all positions and all supervisory staff will be required to complete training in competency-based interviewing. In general, the composition of the expert groups will be interdepartmental. [...] The central review bodies will endorse the generic vacancy announcements and the applicable evaluation criteria. At the end of the process, the central review bodies will review the process leading to proposals for placement on a roster. Central review bodies will also be established for the recruitment of staff for the field-based activities. This will ensure more consistency in the application of rules, policies and procedures for the review and selection of candidates throughout the Secretariat.”

⁵²⁷ A/61/255, section III, para. 74.

⁵²⁸ Ibid., para. 75.

⁵²⁹ Ibid., para. 80.

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issued.⁵³⁰ The Secretary-General stated that generic vacancy announcements would be posted for 60 days, as agreed at the twenty-seventh session of the Staff-Management Coordination Committee (SMCC), and proposed that specific vacancies would be posted for 30 days.⁵³¹ Further, the Secretary-General stated that in order to respond effectively and expeditiously to possible unexpected surge requirements, “heads of department or office would have the discretion to select candidates from either a roster of pre-screened candidates or from departmental databases of qualified candidates in accordance with their delegated authority.”⁵³² At the close of this report, the Secretary-General asked the General Assembly to approve the reduction of the advertising time for specific vacancy announcements from 60 days to 30 days.⁵³³

190. During the sixty-first session of the General Assembly, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) issued a report examining the aforementioned proposal of the Secretary-General (A/61/537). In this report, the ACABQ welcomed the emphasis of the Secretary-General on strategic workforce planning, and stated that accurate workforce planning would be critical in ensuring that the rosters were not so large as to be difficult to manage.⁵³⁴ As such, the ACABQ was not convinced that adequate thought had been given to the administrative and planning work required for the successful management of rosters on a large scale.⁵³⁵ Additionally, the ACABQ stated that it supported the idea of reducing the advertising time of specific vacancies from 60 to 45 days, with the caveat that Member States

⁵³⁰

Ibid.

⁵³¹

Ibid., para. 81.

⁵³²

Ibid., para. 82.

⁵³³

Ibid., para. 121(A).

⁵³⁴

A/61/537, section B, para. 16.

⁵³⁵

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could opt to continue to receive paper copies of vacancy announcements (which should be provided by the time the electronic announcement appeared).⁵³⁶

191. Following the reports by both the Secretary-General and the ACABQ, the General Assembly issued resolution 61/244 in December 2006. In this resolution, the General Assembly requested that the Secretary-General ensure the proper functioning and membership of the central review bodies in order to ensure their effective role in the staff selection system, and to develop an induction and training program for its members.⁵³⁷ Further, the General Assembly requested the Secretary-General to explore ways to further increase awareness of job opportunities in the United Nations system, and recognized that pre-screened rosters could considerably expedite the recruitment process in the United Nations.⁵³⁸

192. The General Assembly further requested the Secretary-General to promote the full utilization of existing rosters for recruitment and to elaborate more on the use of pre-screened rosters “based on the organizational needs identified through strategic workforce planning, taking into account the need for transparency, support for the provisions of Article 101 of the Charter and administrative and resource implications, as well as geographical and gender mandates, and to report to it thereon at the second part of its resumed sixty-first session[.]”⁵³⁹ Finally, the General Assembly reiterated its request to the Secretary-General to continue his

⁵³⁶ Ibid., para. 21.

⁵³⁷ G A resolution 61/244, Section II, para. 4.

⁵³⁸ Ibid., paras. 8,9.

⁵³⁹ Ibid., para. 10.

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efforts to reduce the amount of time required to fill vacancies through addressing the factors contributing to delays in the process.⁵⁴⁰

193. During the sixty-first session of the General Assembly, the Secretary-General issued report A/61/822. In this report, the Secretary-General addressed the General Assembly's previous request regarding the central review bodies. He stated that, in order to ensure greater consistency in central review body reviews, a new version of the Guidelines for Central Review Bodies Review in the Staff Selection System was being developed and introduced as part of a training program.⁵⁴¹

194. The Secretary-General also addressed his efforts to reduce the period of time required to fill vacancies. He stated that in order to further speed up the selection process, training and guidance to staff members who would play key roles in the staff selection system would continue to be provided, and that the new e-staffing tool would contain improved functions to reduce processing time.⁵⁴²

195. Concerning moving beyond the rosters that were then in use, the Secretary-General proposed a framework for the pre-screened roster system. He stated that the "preparations for the establishment of a pre-screened roster system comprise five building blocks, including: (a) strategic workforce planning to identify the Organization's staffing needs; (b) use of generic vacancy announcements; (c) creation of expert groups; (d) expanded use of

⁵⁴⁰ Ibid., para. 13.

⁵⁴¹ A/61/822, section III(C), para. 14.

⁵⁴² Ibid., para. 31.

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central review bodies throughout the Secretariat; and (e) upstreamed clearance process.”⁵⁴³ In addition to those reviewed and found suitable through the above process, the pre-screened candidates would also include those who had succeeded in a competitive examination.⁵⁴⁴

196. In 2007, during the sixty-second session of the General Assembly, the ACABQ issued report A/62/7/Add.14, and addressed the concept of rosters as a means of expediting the staff selection process. ACABQ noted that it had consistently supported the concept of rosters for this use, but noted with concern that the current technology supporting the Galaxy e-staffing system did not allow for the management of rosters, even though rosters were to be an integral part of the staff selection system.⁵⁴⁵ Further, the ACABQ noted that until the Galaxy system was replaced, the usefulness of pre-screened rosters would be limited, and therefore recommended that the General Assembly request the Secretary-General to report to it at its sixty-third session on progress concerning both the replacement of the e-staffing tool and the implementation of pre-screened rosters.⁵⁴⁶

197. The ACABQ stated that it believed that many of the problems that the Organization had encountered in expeditiously recruiting and retaining qualified, high-caliber individuals stem from an overly complex staff selection system.⁵⁴⁷ Considering this, the Secretary-General’s proposal for a new system of administration of justice, and the fact that the ACABQ was informed that a large percentage of the cases processed by the Panel of Counsel

⁵⁴³ Ibid., section IV(B), para. 42.

⁵⁴⁴ Ibid., para. 43.

⁵⁴⁵ A/62/7/Add.14, para. 56.

⁵⁴⁶ Ibid.

⁵⁴⁷ Ibid., para. 58.

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and the Office of the Ombudsman related to staff selection and promotion issues, the ACABQ stated that the time had come to take a hard look at the recruitment system with a view towards simplifying it and making it more transparent, as well as to holding program managers accountable.⁵⁴⁸

198. In his report A/63/282, the Secretary-General addressed measures to ensure the application of the highest standards of efficiency, competence, and integrity within the context of the staff selection system.⁵⁴⁹ One of the measures addressed in this report was the use of the Galaxy e-staffing tool. The Secretary-General stated that the custom-made technological infrastructure of Galaxy severely limited its flexibility and did not allow for required modifications to accommodate the dynamic and evolving policy and operational needs. Noting these limitations, the General Assembly at its sixty-first session approved the development of a new e-staffing talent management support tool to replace the Galaxy e-staffing tool and related resources.⁵⁵⁰ The Secretary-General then stated that the Organization was in the process of configuring and implementing the new e-staffing management support tool, which would support the efficient integration of various work processes (including workforce planning and the solicitation, review and selection, assessment and career support of United Nations candidates).⁵⁵¹

199. In his subsequent report in August 2008 (A/63/285), the Secretary-General addressed a phased approach for the implementation of a roster-based system. In A/63/285, the

⁵⁴⁸ Ibid.

⁵⁴⁹ A/63/282, para. 50.

⁵⁵⁰ Ibid., para. 82.

⁵⁵¹ Ibid., para. 83.

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Secretary-General proposed to commence preparatory work on the roster-based system in January 2009, and to phase in the use of rosters for certain types of functions (in addition to the then-existing rosters) starting in July 2009, as a transitional measure before full-scale application by the end of 2009.⁵⁵² The Secretary-General stated that this would allow the new work processes involved in the application of the roster system to be both tested and refined.⁵⁵³ As such, the Secretary-General requested that the General Assembly approve: “(a) [t]he establishment of a roster-based approach for selection of staff for an initial period of one year; [and] (b) [t]he reduction in the period for the circulation of specific vacancy announcements from 60 days to 30 days.”⁵⁵⁴

200. In A/63/526, the ACABQ stressed that the preparation and maintenance of rosters could involve considerable human and financial resources, and cautioned that experience had shown that rosters were not a panacea for the difficulties affecting the then existing recruitment and staffing system.⁵⁵⁵ The ACABQ further stated that it was not convinced that the Secretary-General’s proposal would contribute significantly to expediting the recruitment process, and that it shared the concerns expressed by Member States that reducing the period of advertising vacancies from 60 days to a shorter period would be a disadvantage to potential candidates from some States with limited access to the United Nations website due to technology gaps.

⁵⁵² A/63/285, section III, para. 35.

⁵⁵³ Ibid.

⁵⁵⁴ Ibid., section IV, para. 37.

⁵⁵⁵ A/63/526, para. 54.

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Accordingly, at that time, the ACABQ recommended against reducing the period for advertising individual vacancies from 60 to 30 days.⁵⁵⁶

201. Through resolution 63/250 in 2008, the General Assembly emphasized the need for strategic workforce planning to proactively support the human resources needs of the United Nations, and urged the Secretary-General to pursue efforts in this area as a matter of priority, and further urged the Secretary-General to ensure that outreach activities cover positions both at Headquarters and in the field.⁵⁵⁷ In this resolution, the General Assembly decided that all specific vacancy announcements should continue to be advertised, and also recognized that the use of pre-screened rosters could considerably expedite the recruitment process.⁵⁵⁸ However, the Assembly also noted that the then-existing rosters under the then-current staff selection system had design flaws and were not widely utilized to fulfill vacancies.⁵⁵⁹ Additionally, the General Assembly emphasized the importance of the participation of staff representatives in the work of the central review bodies, and requested the Secretary-General and invited staff representatives to engage in a consultative process with a view towards resuming the participation of staff representatives in the work of the central review bodies.⁵⁶⁰

202. In September 2010, the Secretary-General issued report A/65/305, in which the Secretary-General once again stated that workforce planning was the first element in the talent management framework, which was aimed at providing the Organization with a forecast of

⁵⁵⁶ Ibid., para. 56.

⁵⁵⁷ G A resolution 63/250, section III, paras. 4,5.

⁵⁵⁸ Ibid., paras. 8,12.

⁵⁵⁹ Ibid., para. 13.

⁵⁶⁰ Ibid., para. 17.

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vacancies based on the Organization's mandates and required skills, so that it could take action and fill those staffing needs.⁵⁶¹

203. This report stated that in 2009, the Organization carried out a Secretariat-wide, long-term workforce planning exercise to identify the supply of available staff in the Organization and compared it with the projected staffing demands.⁵⁶² This report further emphasized that: this exercise was carried out in order to determine future gaps so that strategies to effectively fill those gaps could be identified and implemented;⁵⁶³ the exercise involved more than 60 departments, offices and field operations, and yielded an analysis of the internal availability of staff, but the only firm variable for staff movements were retirements;⁵⁶⁴ and from a forecasting perspective, the exercise's demand analysis did not yield much additional information beyond the number of budgeted posts that were already available.⁵⁶⁵ Further, the report stated that there had previously been an understanding that a major demographic transition (a wave of projected retirements) was under way. As a result of the review of this data, the Secretary-General stated that this major demographic transition did not appear to be occurring

⁵⁶¹ A/65/305, para. 30 states that “[w]orkforce planning was envisaged to be a systematic process that would allow the Organization to make informed, long-term human resources management decisions and in order to ensure that the right number of people with the right skills and experiences are in the right position at the right time. It was also envisaged to be an important tool to address the staffing challenges resulting from an anticipated high rate of retirements in the coming years.”

⁵⁶² A/65/305, para. 32.

⁵⁶³ Ibid.

⁵⁶⁴ Ibid., paras. 32,33.

⁵⁶⁵ Ibid., para. 33.

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(the average age of the staff of the Secretariat had remained unchanged from June 2006 to June 2010 at 42 years).⁵⁶⁶

204. The Secretary-General once again addressed the shortening of the period of circulation for advertising position-specific job openings. In A/65/305, the Secretary-General noted that he had recommended shortening the period from 60 days to 30 days during the sixty-first and sixty-third sessions of the General Assembly, but the Assembly took no specific decision on those recommendations.⁵⁶⁷ Keeping in mind the concern of Member States regarding the technology gap that was discussed above, as well as the existence of new information technology systems and improvements to the staff selection system, including outreach activities to attract Nationals from unrepresented and underrepresented Member States, the Secretary-General requested the General Assembly to reconsider the proposal to reduce the time for vacancy circulation from 60 to 45 days.⁵⁶⁸

205. The Secretary-General continued and stated that in April 2010, the new policy governing staff selection was issued in administrative instruction ST/AI/2010/3, and the new United Nations careers portal and e-staffing tool (Inspira) were launched.⁵⁶⁹ The Secretary-General further stated that the new policy ensured that the same standards of recruitment were applied to all staff of the Secretariat, regardless of where they were serving, and the administrative instruction on staff selection set out, for the first time, the policy, business norms and practices that would enable the global Secretariat to improve staffing at headquarters

⁵⁶⁶ Ibid.

⁵⁶⁷ Ibid., para. 39.

⁵⁶⁸ Ibid., para. 40.

⁵⁶⁹ Ibid., para. 41.

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locations, field missions and field offices.⁵⁷⁰ The Secretary-General further stated that the policy also included measures to support interoperability among the organizations of the United Nations common system.⁵⁷¹

206. During the sixty-first session of the General Assembly, the Secretary-General also addressed the process improvements that would allow for the use of pre-screened rosters to expedite the recruitment process, where pre-screened rosters were not widely utilized to fulfill vacancies due to a number of design flaws.⁵⁷² The Secretary-General further identified new provisions regarding the rostering of candidates which provided for: “(a) [a] common approach to conducting assessments set out in instruction manuals (see ST/AI/2010/3, para. 2.6); (b) [a]n understanding of the role of assessment panels, whose membership will include experts in the subject matter of the occupational group; (c) [s]haring of rostered candidates across the global Secretariat, including field missions administered by the Department of Field Support for the first time; (d) [p]rovision of information to the hiring manager on how a candidate was placed on the roster (i.e., the assessment leading to the recommendation).”⁵⁷³

⁵⁷⁰ Ibid., para. 41.

⁵⁷¹ Ibid.

⁵⁷² A/65/305, para. 54 stated that, “[i]n its resolution 61/244, the General Assembly recognized that pre-screened rosters could considerably expedite the recruitment process in the United Nations. The General Assembly also recognized that there were design flaws associated with the pre-screened roster system resulting in it not being widely utilized to fill vacancies. The Office of Human Resources Management conducted a review of the roster component and other components of Galaxy in order to address design flaws. Two key reasons were identified for the non-utilization of the pre-screened rosters: (a) Insufficient information on the assessment methods used for the position; (b) Uncertainty about the identities of the assessors/panel members and whether they were qualified experts in the subject matter.”

⁵⁷³ Ibid., para. 55.

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207. Subsequent to this report, the ACABQ issued report A/65/537, in which the ACABQ stated that it believed the Secretary-General should have provided a more detailed analysis of why, in his opinion, the workforce planning exercise discussed above provided unexpected results.⁵⁷⁴ However, the ACABQ also supported the Secretary-General's recommendation to reduce the period for circulation of specific job openings from 60 days to 45 days.⁵⁷⁵

208. In resolution 65/247, the last General Assembly resolution on this matter during the period under review, the General Assembly expressed its regret that the Secretary-General was of the view that all-encompassing workforce planning for the Secretariat was of limited value and that he had not presented an Organization-wide strategic workforce plan.⁵⁷⁶ The General Assembly further recognized that workforce planning should be considered an ongoing process, that the staffing requirements of the Organization were contingent upon mandates and that there was scope for the Secretary-General in forecasting future staffing requirements for major occupational groups, including the number of staff needed and the skill sets required, and requested that the Secretary-General report on progress achieved towards forecasting during the sixty-seventh session of the General Assembly.⁵⁷⁷

209. Additionally, the General Assembly recognized the paramount importance of speeding up the recruitment and staffing process, took note of the recommendations of the Secretary-General and ACABQ, but stated that the circulation period for job specific

⁵⁷⁴ A/65/537, para. 9.

⁵⁷⁵ A/65/537, para. 11.

⁵⁷⁶ G A resolution 65/247, section II, para. 12.

⁵⁷⁷ Ibid., paras. 13,14.

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announcements would remain at 60 days, and requested that the Secretary-General conduct a comprehensive review of the entire recruitment process in order to improve the overall response time with a view to realizing the 120 day benchmark for filling a post.⁵⁷⁸ The General Assembly further requested the Secretary-General to report thereon to the Assembly at its sixty-seventh session.⁵⁷⁹

210. Also, the General Assembly emphasized the importance of the participation of staff representatives in the work of the central review bodies, once again requested the Secretary-General and invited staff representatives to engage in a consultative process with a view to resuming the participation of staff representatives in the work of the central review bodies, and welcomed the intention of the Secretary-General to expedite the selection process through virtual meetings of the central review bodies.⁵⁸⁰ The General Assembly also requested that the Secretary-General, in cooperation with Member States, increase job opportunity awareness. The General Assembly further requested⁵⁸¹ that the Secretary-General ensure that all applicants are informed of the results of their applications.⁵⁸²

211. Concerning the new e-staffing tool, Inspira, the General Assembly noted the progress made in its implementation and welcomed all efforts made by the Secretary-General to

⁵⁷⁸ Ibid., paras. 17,18.

⁵⁷⁹ Ibid., para. 18.

⁵⁸⁰ Ibid., paras. 21,22.

⁵⁸¹ This request of the General Assembly related to a number of cases before the United Nations Dispute Tribunal in 2009 and 2010, one of which the Secretary-General appealed to the United Nations Appeals Tribunal, but the previous decision (in which the matter of notification was at issue) was upheld. See *Abbassi v. Secretary-General of the United Nations*, Judgment No. UNDT/2010/086; *Wu v. Secretary-General of the United Nations*, Judgment No. UNDT/2009/084; See Also Judgment No. 2010-UNAT-042; *Krioutchkov v. Secretary-General of the United Nations*, Judgment No. UNDT/2010/065.

⁵⁸² G A Resolution 65/247, section II, paras. 23, 24.

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review and remedy unintended consequences and to minimize inconveniences, especially before its application in the area of peacekeeping missions.⁵⁸³ Further, the General Assembly requested that the Secretary-General include within the Inspira website, “tutorials, tips relating to personal history profiles and competency-based interviews and other materials helpful for external candidates in applying and being considered for vacancies, no later than the end of the sixty-fifth session of the General Assembly, and to report his achievements in that regard to the Assembly at its sixty-seventh session[.]”⁵⁸⁴ There was no further action taken concerning the staff selection system during the period under review.

B. Staff Rules and Regulations

212. In 2005, the ICSC issued its report for the year (A/60/30), which discussed the framework of contractual arrangements. In this report, the ICSC stated that it had decided that three categories of appointments would adequately respond to the needs of the organizations: indefinite or continuing appointments, fixed-term appointments, and temporary appointments.⁵⁸⁵ The ICSC then requested that its secretariat prepare a model contract for each of the three categories, outlining the key characteristics for each category.⁵⁸⁶ At its fifty-ninth session, the ICSC reviewed the draft model contracts for each of the categories that had been prepared by its

⁵⁸³ Ibid., para. 29.

⁵⁸⁴ Ibid., para. 33.

⁵⁸⁵ A/60/30, section B, para. 112.

⁵⁸⁶ Ibid.

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secretariat and requested that the models be further refined in collaboration with the organizations and staff.⁵⁸⁷ Such input was provided to the ICSC at its sixtieth session.⁵⁸⁸

213. Consequently, the ICSC decided to adopt the framework of guidelines for contractual arrangements as amended and put forward in annex IV to report A/60/30.⁵⁸⁹ At its sixtieth session, the ICSC also decided to submit its final report to the General Assembly.⁵⁹⁰ In General Assembly resolution 61/239, the Assembly noted with appreciation the work of the ICSC on the framework for contractual arrangements contained in annex IV to its 2005 report.⁵⁹¹

214. In 2006, during the sixtieth session of the General Assembly, the Secretary-General issued report A/60/692 on Investing in the United Nations: for a stronger Organization worldwide. In this report, the Secretary-General included a section on Investing in People. In this section, the Secretary-General stated that the Organization would need to integrate field and Headquarters staff into one global Secretariat with competitive conditions of service with proactive, rapid and targeted recruitment to satisfy the demands of a largely field-based Organization.⁵⁹² The Secretary-General also identified the need to improve geographical and gender balance, and stated that artificial barriers created by different contractual arrangements must be eliminated.⁵⁹³

⁵⁸⁷ Ibid., para. 113.

⁵⁸⁸ Ibid.

⁵⁸⁹ Ibid., para. 129.

⁵⁹⁰ Ibid.

⁵⁹¹ G A resolution 61/239, section B, para. 2.

⁵⁹² A/60/692, section I, para. 29.

⁵⁹³ Ibid.

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215. In this report, the Secretary-General made a number of proposals, the most relevant of which was Proposal four: to modify contractual arrangements and harmonize conditions of service⁵⁹⁴ in order to meet the needs of an increasingly field-based Organization, through the introduction of one United Nations staff contract under one set of staff rules, and by replacing permanent contracts with open-ended “continuing appointments”.⁵⁹⁵

216. Later in 2006, the Secretary-General issued another report on Investing in People (A/61/255). This report was intended to provide details on the new human resources framework that the Secretary-General outlined in the above report, and focused in part on streamlining contractual arrangements.⁵⁹⁶ In discussing contractual arrangements, the Secretary-General explained that:

“While all United Nations staff members are international civil servants, they serve under a wide range of contractual arrangements and are subject to different conditions of service. One of the major objectives of human resources management reform is to recognize the Organization’s need for a truly integrated, field-oriented and global workforce. This requires simplified and streamlined contractual arrangements which will better serve operational requirements and ensure transparency, fairness and consistency in the treatment of staff.”⁵⁹⁷

217. The Secretary-General further addressed the introduction of one United Nations staff contract under one set of staff rules. The Secretary-General stated that in order to build an integrated, global workforce, the introduction of a single United Nations

⁵⁹⁴ Harmonization of Conditions of Service is covered in another section of this report.

⁵⁹⁵ A/60/692.

⁵⁹⁶ A/61/255, paras. 2,3.

⁵⁹⁷ Ibid., section VI, para. 223.

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staff contract under a single set of staff rules was needed.⁵⁹⁸ Under this new proposed contractual arrangement, the Secretary-General elaborated that the terms of employment for all United Nations Secretariat staff would be governed by one series of staff rules.⁵⁹⁹ Further, the introduction of a single United Nations staff contract would streamline the multiplicity of contractual arrangements which were then possible under the three different series of staff rules.⁶⁰⁰

218. Additionally, the Secretary-General stated that the use of one United Nations contract would enhance transparency and the equity of treatment of staff, and that his proposals would enhance the Organization's ability to recruit and retain high-quality civilian staff, and thereby address the deficiencies identified in the contractual arrangements at that time in place.⁶⁰¹ Moreover, the Secretary-General stated that high vacancy and turnover rates in the field placed the Organization at managerial and financial risk, and the effectiveness of the Organization would be enhanced by strengthening the Organization's ability to attract and retain talent by ensuring the equitable treatment of staff.⁶⁰²

219. Further, the Secretary-General stated that one United Nations staff contract governed by a single series of staff rules would be more transparent, easier to understand, less cumbersome, and less time-consuming to administer.⁶⁰³ Finally, the introduction of a single United Nations staff contract would require a new set of staff rules to replace the then existing

⁵⁹⁸ Ibid., para. 240.

⁵⁹⁹ Ibid.

⁶⁰⁰ Ibid.

⁶⁰¹ Ibid., para. 251.

⁶⁰² Ibid.

⁶⁰³ Ibid., para. 252.

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three sets of staff rules (the 100, 200, and 300 series).⁶⁰⁴ The Secretary-General then identified the three types of appointment which would be used for all Secretariat functions, the duration of which would be determined in accordance with the needs of the organization:

- “(a) A temporary appointment, which would cover up to a maximum period of one year (or up to two years to meet surge needs in the field), for staff appointed to meet seasonal or peak workloads and specific short-term requirements;
- (b) A fixed-term appointment, which could be renewed or extended to cover a maximum period of five years;
- (c) A continuing appointment, which would be open-ended.”⁶⁰⁵

220. With the above in mind, the Secretary-General requested that the General Assembly approve the introduction of a single United Nations staff contract under a single set of staff rules, with three types of appointment status, with conditions of service which would be equivalent to those offered under the then-existing 100 series and would vary according to the length of service, and to approve the replacement of permanent contracts with continuing appointments, for which staff could be given consideration if they had completed five years of continuous service.⁶⁰⁶

221. In October 2006, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) issued report A/61/537, which addressed the above report of the Secretary-General. In this report, the ACABQ stated that the Secretary-General’s request for the General Assembly to approve one United Nations staff contract under one set of staff rules was actually two separate proposals that should be considered on their own merits, as one did not depend on

⁶⁰⁴ Ibid., para. 253.

⁶⁰⁵ Ibid., para. 241.

⁶⁰⁶ Ibid., para. 264.

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the other.⁶⁰⁷ Additionally, the ACABQ expressed its opinion that the General Assembly should delay consideration of the Secretary-General's proposal until after it considered the report of the ICSC that was due in the near future.⁶⁰⁸

222. After considering the reports of the ACABQ and Secretary-General, in December 2006, the General Assembly adopted resolution 61/244.⁶⁰⁹ In this resolution, the General Assembly noted that the then-existing system of contractual arrangements did not fully comply with the proposed ICSC framework, and requested the ICSC to consider the proposals of the Secretary-General and to report thereon at the second part of the General Assembly's resumed sixty-first session.⁶¹⁰ Further, the General Assembly stressed the need for rationalizing the current United Nations system of contractual agreements which lacked transparency and was complex to administer.⁶¹¹ Finally, the General Assembly requested that the Secretary-General address the above comments of the ACABQ.⁶¹²

223. In 2007, the ICSC issued its aforementioned report, A/61/30/Add.1. In this report, the ICSC welcomed the efforts of the Secretary-General, but stated when comparing the Secretary-General's proposals to the ICSC contractual framework, the ICSC found that the proposals were not in alignment with the framework.⁶¹³ Most notably, the ICSC stated that the proposals of the Secretary-General would in fact require five different types of appointment and

⁶⁰⁷ A/61/537, section E, para. 49.

⁶⁰⁸ Ibid., para. 52.

⁶⁰⁹ G A resolution 61/244.

⁶¹⁰ G A resolution 61/244, section VI, paras. 1,2.

⁶¹¹ Ibid., para. 3.

⁶¹² Ibid., paras. 3,4.

⁶¹³ A/61/30/Add.1, para. 4.

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five different contracts, as opposed to the three-types of appointment in the ICSC's framework.⁶¹⁴ Thus, while the ICSC was in favor of one set of staff rules, it was of the opinion that the Secretary-General's objectives could be all achieved within the simple structure of three types of contract as described in the ICSC framework examined above.⁶¹⁵ In conclusion, the ICSC concluded that the Secretary-General's proposals needed revision to conform to the ICSC's contractual framework.⁶¹⁶

224. Subsequent to the report by the ICSC, the Secretary-General issued report A/61/857, which included a response to the observations of the ICSC. The Secretary-General stated that his proposal to limit fixed-term or continuing appointments to particular projects or missions was intended to be in line with the ICSC framework, and that it was only made to address the need for fiscal prudence when employing staff for projects and missions with clearly finite mandates.⁶¹⁷ Also, the Secretary-General elaborated his position and stated that the proposal to introduce a single staff contract providing for three types of appointment in accordance with the ICSC framework was an essential component of the then new human

⁶¹⁴ A/61/30/Add.1, para. 5 stated that the Secretary-General's proposals would in fact require, "the following types of appointment: (a) Continuing appointments; (b) Project or mission-specific continuing appointments; (c) Fixed-term appointments; (d) Project or mission-specific fixed-term appointments; and (e) Temporary appointments. According to the report, depending on the needs of the Organization, fixed-term and continuing contracts could still be limited to particular projects or missions in order to avoid the creation of undue expectations of long-term employment (see A/61/255, para. 244). Obviously, the conditions of service for those contracts would be different from the regular continuing and fixed-term contracts if the Organization is to achieve its objective for using the mission-specific contracts."

⁶¹⁵ A/61/30/Add.1, para. 8.

⁶¹⁶ Ibid., section 6, para. 20.

⁶¹⁷ A/61/857, para. 22.

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resources framework.⁶¹⁸ Further, the streamlined contractual arrangements would provide the Organization the flexibility needed to “respond to the changing operational needs of the Organization, promote equality of treatment for all United Nations Secretariat staff and simplify the administration of contracts.”⁶¹⁹

225. The Secretary-General welcomed the ICSC endorsement of the proposal to streamline contractual arrangements by utilizing one set of staff rules, and he further agreed with the ICSC that the objectives of streamlining contractual arrangements could be achieved within the simple structure of three types of appointment as outlined in the ICSC framework discussed previously within this section.⁶²⁰ Thus, the Secretary-General requested that the General Assembly approve, in principle, “the streamlining of United Nations contractual arrangements under one set of staff rules, with three types of appointment, namely, temporary, fixed-term and continuing[.]”⁶²¹

226. In 2007, during the sixty-second session of the General Assembly, the Secretary-General issued report A/62/274 which focused on, in part, streamlining contractual arrangements by reducing types of appointment.⁶²² In this report, the Secretary-General once again discussed reducing the types of appointment from what was then in effect (which contained a multiplicity of possible appointments including probationary, fixed-term, indefinite and permanent appointments under the 100 series; short-term, intermediate and long-term appointments under

⁶¹⁸ Ibid., para. 25.

⁶¹⁹ Ibid.

⁶²⁰ Ibid., para. 26.

⁶²¹ Ibid., para. 29.

⁶²² A/62/274, section III.

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the 200 series; and short-term and limited-duration appointments under the 300 series) to three types of appointment (temporary, fixed-term, and continuous).⁶²³ The Secretary-General further noted that the streamlining of contractual arrangements was necessary to meet operational needs, remove barriers to mobility, promote equality and transparency, and to make the arrangements easier to administer and more transparent.⁶²⁴ The Secretary-General further stressed that the proposal to utilize three types of appointment (a temporary appointment which would cover a period of up to one year for staff appointed to meet seasonal or peak workloads or specific short-term requirements; a fixed-term appointment, which could be renewed or extended for a maximum of five years; and a continuing appointment, which would be open-ended)⁶²⁵ was designed in conformity with the ICSC's framework for contractual arrangements (which also provided for appointments of the described durations), and stated that Staff members entering the Organization would be offered either a temporary or fixed-term appointment.⁶²⁶ Staff members who had five years or more of continuous service in the Organization would be eligible for consideration for a continuing appointment.⁶²⁷ As such, the Secretary-General requested that the General Assembly approve the new contractual arrangements.⁶²⁸

⁶²³ Ibid., para. 19.

⁶²⁴ Ibid., para. 20.

⁶²⁵ Ibid., para. 21.

⁶²⁶ Ibid., para. 22.

⁶²⁷ Ibid., para. 24 elaborated that, “[w]ith the introduction of continuing appointments, permanent appointments would no longer be offered. The change would not affect staff who currently held permanent appointments, or the acquired rights of staff who, by the time the change became effective, would have the right under existing rules to be considered for permanent appointments. The introduction of continuing appointments, which would allow for termination on the same grounds as permanent appointments, as well as in the interest of the good administration of the Organization, would provide a mechanism for the Organization to grant career appointments to long-serving staff who have

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227. In addition to the above, the Secretary-General also stated that some of the other aspects of the ICSC's observations required examination in consultation with the United Nations staff, and that such consultations would take place in the context of the Staff-Management Coordination Committee (SMCC).⁶²⁹ As stated in ACABQ report A/62/7/Add.1, the SMCC was the "Secretariat-wide joint mechanism established by the Secretary-General, in accordance with the Staff Regulations and Rules, to advise him regarding issues of staff welfare, conditions of work and other Organization-wide personnel policies, and it is the highest level of formal consultation between the staff and the management of the United Nations."⁶³⁰ In its report A/62/7/Add.14, the ACABQ informed the General Assembly that the SMCC convened its twenty-eighth session in the middle of 2007.⁶³¹ At this session, the SMCC affirmed its support for the proposals to streamline contractual management arrangements as set out in the above report of the Secretary-General.⁶³² Through resolution 62/248, the General Assembly took note of the reports of the Secretary-General and his detailed proposals for streamlining the United

demonstrated the highest standards of efficiency, competence and integrity, while at the same time ensuring that the Organization can adjust its workforce in accordance with changing needs, functions and mandates or the reorientation of its programmes. The introduction of continuing appointments would also considerably reduce the current administrative burden of processing thousands of renewals of fixed-term appointments when they reach their expiration dates."

⁶²⁸ Ibid., section VI, para. 62(a).

⁶²⁹ A/62/7/Add.14, para. 5.

⁶³⁰ Ibid.

⁶³¹ A/62/7/Add.14, para. 7 stated that, "[t]he session was attended by management representatives from all major duty stations and staff representatives from the Economic Commission for Africa, the Economic and Social Commission for Asia and the Pacific, the Economic Commission for Latin America and the Caribbean, the Field Staff Union, the United Nations Office at Geneva, the United Nations Office at Nairobi, the United Nations Office at Vienna, the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees and the United Nations University."

⁶³² A/62/7/Add.14, para. 8.

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Nations contractual arrangements, and decided to continue consideration of the issue as a matter of priority in its sixty-third session.⁶³³

228. In 2008, the Secretary-General issued two more reports on this matter (A/63/189 and A/63/282). Within these reports, the Secretary-General proposed amendments to the Staff Regulations that would be needed if the General Assembly approved the Secretary-General's proposals for streamlining contractual arrangements in the Organization, and stated that should the General Assembly approve the proposals for streamlining contractual arrangements, the Assembly was also requested to approve the amendments to the Staff Regulations.⁶³⁴ Further, the Secretary-General stated that if the General Assembly approved all of the above, the Secretary-General would provide the full text of the new single series staff rules.⁶³⁵

229. In resolution 63/250 of 2008, the General Assembly approved the new contractual arrangements which would comprise three types of appointments, under one set of staff rules, which would become effective 1 July 2009, as set out in its resolution 62/248 and subject to the provisions of the present resolution. Additionally, the General Assembly requested that the Secretary-General not appoint any staff to continuing contracts before 1 January 2010 pending consideration by the General Assembly of the additional information concerning the implementation of continuing contracts.⁶³⁶ The Assembly also asked the Secretary-General to

⁶³³ G A resolution 62/248, paras. 1,2.

⁶³⁴ A/63/189, paras. 1, 2, 9.

⁶³⁵ A/63/282, para. 166.

⁶³⁶ A/63/250, section II, para. 3.

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report back to it during its sixty-fourth session on a number of issues concerning the appointment of staff members to continuing appointments.⁶³⁷

230. Further, the General Assembly decided that temporary appointments were to be used to appoint staff for seasonal or peak workloads and specific short-term requirements for less than one year, with the possibility of renewal up to one additional year when warranted.⁶³⁸ The General Assembly also decided that staff on temporary contracts would be eligible to receive the following benefits and allowances: “post adjustment; rental subsidy; hazard pay; hardship allowance; the daily subsistence allowance portion of the assignment grant; leave (depending on the length of contract); home leave (per classification of duty station); and limited shipment allowance[.]”⁶³⁹

231. Concerning staff contracts generally, the General Assembly decided that there would be no expectations, legal or otherwise, of renewal or conversion to a fixed-term contract,

⁶³⁷ A/63/250, Sec. II, para. 4, the General Assembly requested the Secretary-General to report back to it on the following issues: “(a) Rigorous and transparent procedures for granting continuing appointments to staff, including the criteria for eligibility, the relationship with disciplinary measures and the central management of conversions; (b) The role of the performance appraisal system and options for strengthening it to ensure that staff members considered for continuing appointments have demonstrated the highest standards of efficiency, competence and integrity, taking into account any deliberations of the International Civil Service Commission on this issue; (c) The financial and management implications of converting appointments from fixed-term to continuing appointments, and the possible establishment of a ceiling on the number of conversions; (d) Analysis of the implications of the proposed continuing appointments for the system of geographical ranges; (e) Rigorous and transparent procedures to review the performance of staff and the continuing need for functions when determining the granting and termination of an appointment of a staff member, as well as clear and firm lines of accountability, to fully ensure that the granting and termination of continuing contracts is undertaken in a fair and transparent manner, with full regard to due process and the rights of staff; (f) Options for ensuring that successful candidates from national competitive examinations and language staff are not disadvantaged by proposed changes; (g) Analysis of the implications for Junior Professional Officers; (h) The potential ramifications of the proposed amendment to staff regulation 9.1[.]”

⁶³⁸ A/63/250, Sec. II, para. 7.

⁶³⁹ Ibid., para. 8.

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irrespective of the length of service, and requested that the Secretary-General reflect this provision in the rules and regulations as well as offers and letters of appointment.⁶⁴⁰ Further, the General Assembly also requested that the Secretary-General submit draft regulations by which the streamlined system would be implemented,⁶⁴¹ evaluate the impact of the implementation of the new system of staff contracts,⁶⁴² and discontinue the practice of assigning staff from Headquarters to missions on a travel status basis for a period of more than three months.⁶⁴³

232. As per the request of the General Assembly, the Secretary-General issued A/63/694, which contained the proposed amendments to the Staff Regulations that would implement the streamlined system of contracts.⁶⁴⁴ Annex I of this document provided explanations of the proposed amendments, and Annex II contained the full text of the amended Staff Regulations.⁶⁴⁵ The Secretary-General then requested the General Assembly to approve the amended Staff Regulations as contained in this report.⁶⁴⁶

233. In resolution 63/271 of 2009, the General Assembly noted the above report by the Secretary-General and endorsed the conclusions and approved the amendments to the Staff Regulations as contained in the Secretary-General's report, subject to the provisions the General Assembly put forward in this resolution.⁶⁴⁷ The General Assembly also stressed the importance

⁶⁴⁰ Ibid., para. 21.

⁶⁴¹ Ibid., para. 12.

⁶⁴² Ibid., para. 13.

⁶⁴³ Ibid., para. 14.

⁶⁴⁴ A/63/694, section I, para. 1.

⁶⁴⁵ Ibid., paras. 3,4.

⁶⁴⁶ Ibid., para. 5

⁶⁴⁷ G A resolution 63/271, paras. 1,3,5,6,10, stated that the General Assembly, "5. Stresses that staff regulation 4.5 (b) does not prejudice the possibility of renewal of a temporary appointment, taking fully

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of a meaningful and constructive dialogue between staff and management to overcome differences,⁶⁴⁸ and requested that the Secretary-General report on the full implications of converting all eligible staff to permanent appointments, as well as report on the provisional new staff rules during the Assembly's sixty-fourth session.⁶⁴⁹ Further, the General Assembly requested that the Secretary-General submit a report regarding the status of the review of staff members eligible for consideration as of 30 June 2009 for permanent appointment, and also requested the Secretary-General to ensure that the staff rules and related administrative issuances derived from the aforementioned Staff Regulations comply with the provisions of the relevant resolutions.⁶⁵⁰

234. The Secretary-General subsequently submitted report A/64/230. This report, consistent with staff regulation 12.4, provided further details on the provisional staff rules contained in document ST/SGB/2009/7, and stated that the provisional rules would enter into full force and effect as of 1 January 2010, taking into account any modifications and/or deletions as may have been directed by the General Assembly during the main part of its sixty-fourth session.⁶⁵¹ Further, the proposed amendments to the Staff Regulations promulgated in

into account the provisions of paragraph 7 of section II of its resolution 63/250; 6. Also stresses that staff regulation 4.4 shall not preclude consideration of external candidates in filling vacant positions under conditions defined by the Secretary-General in accordance with Article 101, paragraph 3, of the Charter of the United Nations and the relevant provisions of the resolutions of the General Assembly; 10. Recalls paragraph 4 of section II of its resolution 63/250, and stresses that the implementation of the part of the new staff regulation 4.5 concerning conversion to continuing appointments shall require further decisions by the General Assembly on the criteria for eligibility[.]”

⁶⁴⁸ G A resolution 63/271, para. 11.

⁶⁴⁹ Ibid., paras. 12,15.

⁶⁵⁰ Ibid., paras. 13,14.

⁶⁵¹ A/64/230, section I, para. 2.

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ST/SGB/2009/6 took effect on 1 July 2009.⁶⁵² Through his report A/64/230, the Secretary-General also submitted the full text of the provisional staff rules to the Assembly for its consideration during its sixty-fourth Session.⁶⁵³

235. The Secretary-General also stated that the General Assembly may want to take note of the new staff rules set forth in document ST/SGB/2009/7,⁶⁵⁴ as well as request that the Secretary-General amend staff rules 4.14 and 4.15(j) on the basis of its consideration of the report of the Secretary-General on continuing appointments at its sixty-fourth session.⁶⁵⁵ Additionally, the Secretary-General stated that the General Assembly may want to request the Secretary-General to report on the new staff rules during the Assembly's sixty-fifth session, in accordance with Staff Rule 12.4.⁶⁵⁶

236. In his report A/64/267, the Secretary-General proposed that a continuing appointment may be granted to a staff member who had a minimum of five years of continuous service with the Organization, that she or he met the highest standards of efficiency and "competence corresponding to a performance rating of 3 or above in the four most recent performance appraisal reports, and that he or she has not been subject to any disciplinary measure during the five years prior to the time of review."⁶⁵⁷ The Secretary-General also

⁶⁵² Ibid., para. 3.

⁶⁵³ Ibid. section II, para. 4.

⁶⁵⁴ Ibid., section VII, para. 44(a).

⁶⁵⁵ Ibid., para. 44(b).

⁶⁵⁶ Ibid., para. 44(b).

⁶⁵⁷ A/64/267, section A, para. 6.

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discussed further criteria for eligibility for consideration or granting of a continuing appointment.⁶⁵⁸

237. In the conclusion of this report, the Secretary-General stated that the General Assembly also had before it a separate report (A/64/230) on the new provisional staff rules (which the Secretary-General issued on 1 July 2009, in accordance with staff regulation 12.2) and that should the General Assembly approved the Secretary-General's proposals for the implementation of the continuing appointment as contained in this report, the relevant rules (staff rules 4.14 and 4.16) would be amended to reflect any decision taken by the General Assembly during the main part of its sixty-fourth session on this issue, and the staff rules would be provisionally promulgated on 1 January 2010 to allow implementation of continuing appointments by that date.⁶⁵⁹ Further, the Secretary-General would report to the General Assembly on the aforementioned amendments to the staff rules at the main part of its sixty-fifth session, and the amended new staff rules would enter into full force and effect 1 January 2011, in

⁶⁵⁸ A/64/267, section B, paras. 7,8 stated that the Secretary-General "propose[d] that a Secretariat staff member with five years of continuous service in an entity that applies the Staff Regulations and the Staff Rules, irrespective of the type of appointment, i.e. staff members previously appointed under the 100, 200 or 300 series or appointed since 1 July 2009 under the new Staff Rules, would be eligible for consideration for a continuing appointment. Any break in service would interrupt the continuity for counting the five years of continuing service, and the clock would have to be reset. Service on a temporary appointment would not count towards eligibility for the continuing appointment. 8. Staff holding appointments limited to service in a particular office would not be excluded from consideration for continuing appointments. Normally, staff working in projects or entities with finite mandates would be excluded from consideration for continuing appointments due to the finite nature of their services; however, they could be considered for a continuing appointment provided there was a continuing need for the services of the staff member elsewhere in the Organization. Once a continuing appointment is granted, there would be no limitation to service in a particular office or department. The Advisory Committee on Administrative and Budgetary Questions supported this proposal in its report on human resources management (A/62/7/Add.14, para. 15)."

⁶⁵⁹ A/64/267, section V, para. 53.

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accordance with staff regulation 12.4.⁶⁶⁰ Finally, the Secretary-General requested that the General Assembly approve the implementation of continuing appointments as of 1 January 2010 under the conditions specified in this report.⁶⁶¹

238. However, the General Assembly in decision 64/546, decided that the staff rules should remain provisional pending further consideration at the Assembly's sixty-fifth session.⁶⁶²

As such, the Secretary-General submitted an amended version of the provisional staff rules (ST/SGB/2010/6) for the General Assembly's consideration during its sixty-fifth session.⁶⁶³

According to Secretary-General report A/65/202, and consistent with staff regulation 12.4, unless otherwise indicated by the General Assembly during the main part of its sixty-fifth session, the provisional staff rules promulgated in document ST/SGB/2010/6 were to enter into full force on 1 January 2011.⁶⁶⁴

239. In report A/65/202, the Secretary-General stated that the General Assembly may wish to take note of the new (amended) provisional staff rules set forth in ST/SGB/2010/6 and request that the Secretary-General amend Staff Rule 4.14 on the bases of its consideration of the report of the Secretary-General on continuing appointments at its sixty-fifth session.⁶⁶⁵

240. Through report A/65/305/Add.1, the Secretary-General submitted a revised proposal for the implementation of the continuing appointment in the United Nations

⁶⁶⁰ Ibid., para. 54.

⁶⁶¹ Ibid., para. 55.

⁶⁶² A/65/202, section II, para. 4.

⁶⁶³ Ibid., para. 5.

⁶⁶⁴ Ibid., section I, para. 2.

⁶⁶⁵ Ibid., section IV, paras. 22(a,b).

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Secretariat.⁶⁶⁶ Specifically, the Secretary-General proposed the following criteria to regulate consideration of eligibility for the granting of a continuing appointment: (1) a minimum of five years of continuing service under the Staff Regulations of the United Nations and the staff rules;⁶⁶⁷ (2) a performance rating of 3 or higher in the four most recent performance appraisal reports, and that the staff member had not been subject to any disciplinary measures during the five years prior to the time of the review;⁶⁶⁸ and (3) the continuation for the foreseeable future of the mandate of the office in which the staff member was serving.⁶⁶⁹

241. The Secretary-General further stated that staff who held appointments limited to service in a particular office would not be excluded from consideration for continuing appointments, however their continuing appointment would be limited to that particular office. Additionally, staff working in programs for which the continuation of the appointment was not foreseeable or funds were expected to run out shortly would not be eligible for a continuing appointment.⁶⁷⁰ Finally, the Secretary-General requested the General Assembly to consider

⁶⁶⁶ A/65/305/Add.1, section III(A), para. 19.

⁶⁶⁷ A/65/305/Add.1, section III(C), para. 30(a) elaborated on the following more specific criteria: “(i) A staff member of the United Nations Secretariat who has accrued five years of continuous service on a fixed-term appointment, including periods of service in an entity that applies the Staff Regulations of the United Nations and the Staff Rules, will be deemed eligible for consideration for a continuing appointment; (ii) Staff members who were previously appointed under the 100, 200 or 300 series and have been appointed since 1 July 2009 on a fixed-term appointment under the new provisional staff rules, will be deemed to be eligible for consideration for a continuing appointment if they have served for five years continuously; (iii) Breaks in service would interrupt the accrual of the five years of continuing service and the clock would have to be reset; (iv) Service on a temporary appointment does not count towards eligibility for the continuing appointment[.]”

⁶⁶⁸ A/65/305/Add.1, section III(C), para. 30(b).

⁶⁶⁹ Ibid., para. 30(c).

⁶⁷⁰ Ibid., para. 31.

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approving the implementation of continuing appointments as of 1 January 2011 under the conditions specified in the immediate report (A/65/305/Add.1).⁶⁷¹

242. During the sixty-fifth session of the General Assembly, in December 2010, the General Assembly adopted resolution 65/247. In this resolution, the General Assembly reaffirmed that contractual arrangements comprise three types of appointments (temporary, fixed term, and continuing), and approved the granting of continuing contracts as of 1 January 2011 to eligible staff members on the basis of the continuing needs of the Organization.⁶⁷² Additionally, the General Assembly decided that successful candidates from national competitive recruitment examinations and staff from language services after two years of probationary service would be granted continuing contracts, notwithstanding the provisions contained in paragraphs 51 to 61 of the immediate resolution (which is discussed in part below).⁶⁷³

243. In this immediate resolution, the General Assembly decided that the continuing needs of the Organization would be determined on the basis of established and temporary posts of a duration of more than five years, as well as general temporary assistance in special political missions, with the exception of those covered by the provisions of paragraphs 53 (b) and (c) of the resolution as discussed below.⁶⁷⁴

244. In paragraph 53 of the immediate resolution, the General Assembly further decided that staff members must satisfy the following criteria in order to be eligible for consideration for the granting of continuing contracts:

⁶⁷¹ Ibid., section V, para. 72(c).

⁶⁷² G A resolution 65/247, section VI, paras. 48,49.

⁶⁷³ Ibid., para. 50.

⁶⁷⁴ Ibid., para. 51.

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- “(a) They must have completed a minimum of five years of continuing service under the Staff Regulations and Rules of the United Nations:
- (i) Staff members of the United Nations Secretariat who have accrued at least five years of continuous service on fixed-term appointments, including periods of service in an entity that applies the Staff Regulations and Rules of the United Nations;
 - (ii) Staff members who were previously appointed under the 100, 200 or 300 series of the staff rules and who have been appointed since 1 July 2009 on a fixed-term appointment under the provisional staff rules after a competitive process under staff rule 4.15 if they have served for five years continuously;
- (b) They must not be national staff recruited for field missions;
- (c) They must not be international or locally recruited staff recruited for service in the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia;
- (d) They must have received a performance rating of at least “Meets expectations” or equivalent in the four most recent performance appraisal reports, and must not have been subject to any disciplinary measure during the five years prior to their consideration for the granting of a continuing contract;
- (e) They must have at least seven years of service remaining before reaching the mandatory age of separation[.]”⁶⁷⁵

245. Additionally, the General Assembly decided that internationally recruited staff in the Professional and higher categories as well as staff in the Field Service category who satisfy the eligibility criteria above shall be allocated points (as set out in the annex of the immediate resolution) for the following additional criteria:

- “(a) Performance ratings of above “Meets expectations” or equivalent in the four most recent performance appraisal reports;
- (b) Service in duty stations with hardship classification of A, B, C, D or E of at least one year in each duty station;
- (c) Service in non-family duty stations of at least one year in each duty station;

⁶⁷⁵ Ibid., para. 53.

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- (d) Geographical mobility, defined as movement between two duty stations in different countries, with continuous periods of service of at least one year in each duty station;
- (e) Functional mobility, defined as continuous periods of service of at least one year each in more than one job family;
- (f) Proficiency in one official language of the United Nations other than one's mother tongue;
- (g) Each additional year of service beyond five years[.]”⁶⁷⁶

246. In this resolution, the General Assembly requested the Secretary-General to report back to it on the implementation of the continuing appointments regime, within the context of his report on human resources reform, starting with the sixty-seventh session of the General Assembly.⁶⁷⁷ The General Assembly also requested that the Secretary-General report back to the Assembly at its seventy-third session on the implementation of the provisions of the present resolution, with the aim of reviewing the system of granting continuing contracts, and decided that staff members who were granted such contracts shall be subject to decisions of the General Assembly on mobility and the learning policy of the Secretary-General.⁶⁷⁸

247. Finally, in regard to the provisional staff rules and amendments to the Staff Regulations, the General Assembly took note of the report of the Secretary-General on the provisional staff rules, and decided to defer consideration of the Secretary-General's proposal to amend the staff regulations until its sixty-sixth Session.⁶⁷⁹ No further action was taken regarding the staff rules or staff regulations during the period under review.

⁶⁷⁶ Ibid., para. 54.

⁶⁷⁷ Ibid., para. 60.

⁶⁷⁸ Ibid., 61,62.

⁶⁷⁹ Ibid., section X, paras. 74,75.

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C. The Principle of Geographical Distribution

1. In general

248. Both prior to, and during the period under review, the General Assembly requested that the Secretary-General ensure the highest standards of efficiency, competence and integrity serve as the paramount consideration in the employment of staff, with due regard for the principle of equitable geographical distribution, in accordance with Article 101, paragraph 3, of the Charter of the United Nations.⁶⁸⁰ Prior to the period under review, in resolution 60/238, the General Assembly noted that, owing to projected retirements, many Member States may become unrepresented and underrepresented during the period 2005–2009, and requested that the Secretary-General urgently take steps to address this matter.⁶⁸¹ The General Assembly also reiterated its request that the Secretary-General include an analysis of the level of underrepresentation in his report on the composition of the Secretariat, and further requested that the Secretary-General to provide to the General Assembly at its sixty-first session an assessment of recruitment to P-2 and P-3 posts, including the effect of the national competitive examinations and, if relevant, recommendations on how to improve this method of recruitment.⁶⁸²

249. In 2006, the General Assembly adopted resolution 60/260, in which it requested that the Secretary-General submit a report containing proposals to effectively increase the

⁶⁸⁰ G A resolution 60/238, para. 1.

⁶⁸¹ *Ibid.*, para. 5.

⁶⁸² *Ibid.*, paras. 6,7.

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representation of developing countries in the Secretariat, specifically at the senior levels, and with due regard to the principle of equitable geographical distribution of posts.⁶⁸³

250. Subsequent to the above requests, the Secretary-General issued report A/61/228. In this report, the Secretary-General stated that equitable geographical distribution continued to be a priority issue and was addressed in a variety of ways. Among them was the human resources action plans where heads of departments and offices undertook to increase the number of recruitments of candidates from unrepresented and underrepresented Member States on posts subject to geographical distribution.⁶⁸⁴ Additionally, the department and office heads undertook such plans in order to monitor the share of developing countries, countries with economies in transition and developed countries in the Secretariat's geographical composition at the Professional and higher categories. The Secretary-General then stated that it was the Management Performance Board that monitored the performance of each department and office in the implementation of the human resources action plans.⁶⁸⁵ The Secretary-General also provided more detailed information regarding the human resources action plans⁶⁸⁶ in this report.⁶⁸⁷

⁶⁸³ G A resolution 60/260, section II, para. 2(e).

⁶⁸⁴ A/61/228, para. 94.

⁶⁸⁵ Ibid.

⁶⁸⁶ A/61/257, para. 82 stated that, "human resources action planning was introduced in 1999 throughout the Secretariat. The departmental human resources action plans are biennial compacts between the heads of the participating departments/offices and the Assistant Secretary-General for Human Resources Management. The action plans, which include organizational human resources management goals based on the relevant mandates of the General Assembly, help to guide programme managers in their human resources management activities during the two-year planning cycle."

⁶⁸⁷ A/61/228, paras. 21, 22 stated that "[t]he departmental human resources planning system is based on biennial action plans, which are compacts between the heads of the participating department/offices

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251. Another way in which the Secretary-General was addressing the issue of equitable geographical distribution was through the staff selection system, which required heads of departments and offices to certify that they had taken into account the Organization's human resources objectives and targets as reflected in the departmental human resources action plans, particularly concerning geography.⁶⁸⁸

252. Further, the Secretary-General stated⁶⁸⁹ that he had proposed a "fast track" pilot project, which was a new measure to assist in reducing the level of underrepresentation of Member States and the number of unrepresented Member States.⁶⁹⁰ The Secretary-General further stated that the General Assembly, through resolution 59/266, had authorized the Secretary-General to establish for a trial period of two years, "a special roster of candidates from unrepresented and underrepresented Member States for a number of posts at the P-4 and P-5 levels only, until such Member States are within the desirable ranges."⁶⁹¹ After preparatory consultations with unrepresented and underrepresented Member States, the Office of Human

and the Assistant Secretary-General for Human Resources Management. The plans, an important element of the organizational accountability framework, are also reflected in the programme management plans between heads of departments and the Secretary-General. 22. The human resources action plans include organizational human resources management goals based on the relevant mandates of the General Assembly. The action plans constitute the management framework to guide programme managers in their human resources management activities during the biennium. Departmental progress is monitored by the Office of Human Resources Management, which provides departments with the required information, guidance and assistance."

⁶⁸⁸ A/61/228, para. 95.

⁶⁸⁹ Ibid., para. 98.

⁶⁹⁰ Ibid.

⁶⁹¹ Ibid.

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Resources Management (OHRM) launched a fast-track pilot project in May 2006 in partnership with departments and concerned Member States.⁶⁹²

253. The Secretary-General further stated in A/61/228 that another important means of addressing the issue of equitable geographical representation was the national competitive examination (NCE), which was offered annually to nationals from Member States that were unrepresented, underrepresented or in danger of falling below their desirable range.⁶⁹³

254. Concerning the statement by the General Assembly addressing the impending retirements of many staff members, the Secretary-General stated that he was addressing the matter in a variety of ways, including more focused workforce planning, the inclusion of Member States in danger of becoming unrepresented or underrepresented in the NCE, and reminders to managers to advertise posts six months prior to anticipated retirements.⁶⁹⁴

255. In the Secretary-General's annual report on the composition of the Secretariat issued in 2006 (A/61/257), he provided information on important demographic characteristics of the Secretariat and the system of desirable ranges for the geographical distribution of staff.⁶⁹⁵

The Secretary-General stated in this report that a review of progress towards achieving the planning goals during the first year of the then-existing action plan cycle⁶⁹⁶ had been completed

⁶⁹² Ibid., para. 99.

⁶⁹³ Ibid., para. 100, stated that, "staff recruited through the examination were given geographical status."

⁶⁹⁴ Ibid., para. 101.

⁶⁹⁵ A/61/257, para. 1.

⁶⁹⁶ A/61/257, section III(A), para. 85 stated that "[a]dditional information on the human resources action plans is provided in the sections on human resources planning and monitoring of the Secretary-General's reports entitled "Human resources management reform." *See also* A/61/228, A/61/255, A/61/319.

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by OHRM, in cooperation with participating departments and offices.⁶⁹⁷ The Secretary-General further stated that the departmental mid-cycle scorecards had been submitted to the Management Performance Board, and that the Board noted that although certain departments had made good progress in attaining their goals, the overall performance needed improvement, especially in the areas of geographic representation and gender balance.⁶⁹⁸

256. Also in this report (A/61/257), the Secretary-General analyzed the level of underrepresentation for staff under the system of desirable ranges on posts subject to geographical distribution⁶⁹⁹ from 2002 through 2006.⁷⁰⁰ For the purposes of this analysis, the level of underrepresentation was defined as “the difference between the number of a Member State’s nationals who are active staff in the Secretariat under the system of desirable ranges and the lower limit of the Member State’s desirable range.”⁷⁰¹

257. In report A/61/257, the Secretary-General put forth another means by which he was addressing the issue of equitable geographical distribution (in addition to the means detailed above in A/61/228). This means was the Galaxy e-staffing system.⁷⁰² The Galaxy e-staffing system had been enhanced to include a special feature that highlighted candidates from

⁶⁹⁷ A/61/257, section III(A), para. 84.

⁶⁹⁸ Ibid.

⁶⁹⁹ Ibid., para. 87 stated that “[t]he increase in the number of unrepresented and underrepresented Member States from 27 in 2002 to 29 in 2006 and the creation of 300 additional posts under the system of desirable ranges has resulted in an increase in the overall number of recruitments that is required to bring all existing unrepresented and underrepresented Member States within range. That number rose from 194 in 2002 to 217 in 2006.”

⁷⁰⁰ A/61/257, section III(B), para. 86.

⁷⁰¹ Ibid.

⁷⁰² Ibid., para. 99.

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unrepresented and underrepresented Member States and also offered a search function to help managers identify candidates by nationality.⁷⁰³

258. Subsequent to the issuance of the Secretary-General's above report, the General Assembly adopted resolution 61/244. In this resolution, the General Assembly reaffirmed that the national competitive examinations were the source of recruitment for P-2 posts subject to geographical distribution in order to reduce non-representation and underrepresentation of Member States in the Secretariat. The General Assembly further requested the Secretary-General to accelerate the recruitment of candidates who had passed national competitive examinations.⁷⁰⁴

259. Additionally in this resolution, the General Assembly noted that the number of unrepresented and underrepresented Member States had increased since 2002,⁷⁰⁵ and further noted with concern that the total number of staff from underrepresented Member States and their proportion to the total number of staff in posts subject to geographical distribution decreased in the period between 2002 and 2006.⁷⁰⁶

260. Also, the General Assembly welcomed the aforementioned analysis by the Secretary-General of the level of underrepresentation,⁷⁰⁷ regretted the insufficient accountability of department and office heads in that regard,⁷⁰⁸ and requested that the Secretary-General post

⁷⁰³ Ibid.

⁷⁰⁴ G A resolution 61/244, section III, para. 1.

⁷⁰⁵ Ibid., section X, para. 2.

⁷⁰⁶ Ibid., para. 4.

⁷⁰⁷ Ibid., para. 5.

⁷⁰⁸ Ibid., para. 6.

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information regarding the human resources action plans on the United Nations website and to report thereon in the context of the Management Performance Board report.⁷⁰⁹

261. Further, General Assembly expressed concern over the decline in the number of nationals from developing countries at the senior and policymaking levels,⁷¹⁰ expressed further concern over the imbalance in different departments of the Secretariat in that same regard,⁷¹¹ and requested that the Secretary-General ensure (through the Management Performance Board) the monitoring of the implementation of human resources action plans.⁷¹²

262. In this resolution, the General Assembly also reiterated its request to the Secretary-General to intensify his efforts to increase recruitment from unrepresented and underrepresented Member States and to undertake outreach efforts designed to prevent countries from falling under those categories,⁷¹³ and decided to continue the fast-track roster for an additional two-year period, and requested the Secretary-General to report at its sixty-third session on the effectiveness of the roster.⁷¹⁴

263. Moreover, the General Assembly requested that the Secretary General take all the necessary measures to ensure equitable representation of Member States at the senior and policy making levels of the Secretariat (especially those that had inadequate representation in those levels at that time),⁷¹⁵ and reiterated its previous request to the Secretary-General to present

⁷⁰⁹ Ibid., para. 8.
⁷¹⁰ Ibid., para. 9.
⁷¹¹ Ibid., para. 9.
⁷¹² Ibid., para. 11.
⁷¹³ Ibid., para. 12.
⁷¹⁴ Ibid., para. 13.
⁷¹⁵ Ibid., para. 14.

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proposals to effectively increase the representation of developing countries in the Secretariat.⁷¹⁶

Finally, the General Assembly considered that the encouragement of recruitment from unrepresented and underrepresented Member States should not disallow other qualified candidates from competing.⁷¹⁷

264. During the sixty-second session of the General Assembly, the Secretary-General issued report A/62/315, which provided a number of demographic characteristics, as well as addressing geographical distribution at the senior and policymaking levels.⁷¹⁸ Concerning geographical representation at the senior and policymaking levels, the Secretary-General stated that he was committed to achieving gender and geographical balance in his team of senior officials.⁷¹⁹ To that end, during the first six months of his tenure, he had ensured that a number of key positions have been filled by women, while keeping in mind the need for equitable geographical representation of Member States, including those with inadequate representation at such senior levels, and had solicited nominations from Member States for several senior positions and would continue to do so.⁷²⁰

265. Further, the Secretary-General stated that his focus on senior appointments at the D-2 and above levels, Assistant Secretary-General, and Under-Secretary-General positions was being communicated to Member States and other entities, as well as advertised in the international media, which contributed to a broader pool of candidates for consideration in both

⁷¹⁶ Ibid., para. 17.

⁷¹⁷ Ibid., para. 19.

⁷¹⁸ A/62/315, para. 1.

⁷¹⁹ Ibid., para. 84.

⁷²⁰ Ibid.

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geographical and gender terms.⁷²¹ Additionally, the Secretary-General noted that he had increased female representation in the senior appointments group which, at the Secretary-General's request, advised him on senior appointments at the Under-Secretary-General and Assistant Secretary-General levels, and had also established a field appointments panel to examine and make recommendations on field appointments at the senior levels.⁷²²

266. In 2007, the Joint Inspection Unit (JIU) issued report JIU/REP/2007/9, and noted that “the fact that the examination is offered only to nationals from countries that are not represented, or are not adequately represented in the Secretariat, serves the purpose of improving the geographical composition of the Secretariat. Thus [the national competitive recruitment examination (NCRE)] contributes to achieving the objective of equitable geographical representation set by the General Assembly. However, since the NCRE is only one of the recruitment channels used by the United Nations, it alone cannot secure the required geographical distribution of staff.”⁷²³

267. The Secretary-General transmitted, along with the report of the JIU entitled “Review of the national competitive recruitment examination as a recruitment tool”, a note containing his comments on the report (A/62/707/Add.1). The Secretary-General stated that the report of the JIU provided qualitative and quantitative data to support the Secretary-General's statements and confirmed that recruitment from the roster of the NCRE had had a significant

⁷²¹ Ibid., para. 85.

⁷²² Ibid.

⁷²³ JIU/REP/2007/9.

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impact on the improvement of geographical representation within the Organization.⁷²⁴ Further, the Secretary-General noted that “[w]hile the report highlights several shortcomings in the processes associated with the programme, it should be noted that efforts are currently under way to correct and address these concerns.”⁷²⁵

268. In 2008, the Secretary-General issued report A/63/282, which addressed the measures put in place in order to ensure recruitment on as wide a geographical basis as possible.⁷²⁶ The Secretary-General stated that, as of 1 January 2007, the revised staff selection system required that: “(a) [f]or posts in the Professional and higher categories subject to geographical distribution, if the head of department or office proposes to select an external candidate from an overrepresented Member State, the proposed selection decision must be justified to and approved by the Office of Human Resources Management prior to selection; (b) [f]or vacancies at the P-3 level, prior to the selection of an external candidate, that decision must be justified on the record to and approved by the Office of Human Resources Management.”⁷²⁷

269. The Secretary-General elaborated that in considering the proposed selection decisions in the context of the above provisions, the OHRM took into account the geographical representation status of the countries of nationality of recommended external candidates, the status of the implementation of geographic and gender targets specified in departmental human resources action plans, the availability of qualified internal candidates, and the operational

⁷²⁴ A/62/707/Add.1, para. 2.

⁷²⁵ Ibid., para. 3.

⁷²⁶ A/63/282, section 3(a), para. 53.

⁷²⁷ Ibid., para. 54.

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requirements of departments and offices.⁷²⁸ In addition, the Secretary-General emphasized that departmental human resources action plans provided a means of monitoring whether the department or office had met its human resources goals, including achieving progress towards attaining geographic and gender targets.⁷²⁹ Additionally, the Secretary-General also stated that the representation status of Member States had improved over the two years prior to his report.⁷³⁰

270. The Secretary-General also addressed the lessons learned in the aforementioned fast-track project.⁷³¹ The Secretary-General stated that these lessons were incorporated into the continuation of outreach efforts to reach the goal of equitable geographical representation, and that several new measures were put in place to improve geographical representation.⁷³² These new measures included the creation of an Outreach Unit in OHRM.⁷³³ Further, the Secretary-General stated that outreach missions were planned for later in 2008 to certain unrepresented and underrepresented Member States, and could be considered for additional Member States that were below the desirable range.⁷³⁴

271. Additionally, the Secretary-General stated that another measure taken to solicit candidates from unrepresented and underrepresented Member States was to link the websites of the United Nations Information Centres in those States to the Galaxy e-staffing tool.⁷³⁵

⁷²⁸ Ibid., para. 55.
⁷²⁹ Ibid., para. 56.
⁷³⁰ Ibid., para. 57.
⁷³¹ Ibid., para. 59.
⁷³² Ibid.
⁷³³ Ibid.
⁷³⁴ Ibid.
⁷³⁵ Ibid.

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In 2008, through resolution 63/250, the General Assembly repeated many of its statements from resolution 61/244 discussed above. The General Assembly also welcomed the continuing efforts of the Secretary-General to improve the situation of unrepresented and underrepresented Member States and of those which might become underrepresented under the system of desirable ranges,⁷³⁶ and reiterated its request to the Secretary-General to present proposals to effectively increase the representation of developing countries in the Secretariat and to report back thereon at the Assembly's sixty-fifth session.⁷³⁷ The General Assembly further welcomed the efforts of the Secretary-General to set specific targets throughout the Organization in order to increase recruitment from unrepresented and underrepresented Member States.⁷³⁸

272. The General Assembly also recalled its request to the Secretary-General to reduce, to the extent possible, the number of unrepresented and underrepresented Member States in the Secretariat by 30 percent by 2010, compared to the level in 2006, and requested that he report to the General Assembly thereon, in the context of his report on human resources management.⁷³⁹

273. Finally, the General Assembly recognized that considerable change had taken place in the composition and the number of staff of the global United Nations Secretariat in the preceding two decades, recalled the above reports of the Secretary-General, and requested him to submit to the General-Assembly at its sixty-fifth session, proposals for a comprehensive review of the system of desirable ranges, with a view towards establishing a more effective tool to

⁷³⁶ G A resolution 63/250, section IX, para. 5.

⁷³⁷ Ibid., para. 8.

⁷³⁸ Ibid., para. 9.

⁷³⁹ Ibid., para. 15.

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ensure equitable geographical distribution in relation to the total number of staff of the global United Nations Secretariat.⁷⁴⁰

274. In 2009, the Secretary-General issued report A/64/352, which discussed the human resources action plans. According to the Secretary-General, OHRM had implemented an enhanced version of the action plan website to further improve transparency and empower departments and offices. The enhancements included comprehensive statistical data on action plan indicators (derived from various stand-alone data systems), and the ability to extract the underlying data in respect of all indicators, thus contributing to departmental awareness of their strengths and weaknesses.⁷⁴¹

275. Also in this report, the Secretary-General stated that the role of OHRM included the preparation of a performance scorecard for each department, as well as an overall organizational summary, which were provided to the Management Performance Board for review at the middle and the end of each cycle. The Management Performance Board reviewed performance results at the end of the fifth cycle (2007-2008) in April 2009, and its findings were communicated to each head of the departments and offices, which were in turn requested to submit planned measures to overcome any performance shortcomings.⁷⁴² Additionally, the Secretary-General stated that while the number of underrepresented countries had gone up, the underlying data showed that this was due to a peak in retirements from the newly underrepresented countries over the preceding two years, as well as an increase in the number of

⁷⁴⁰ Ibid., para. 17.

⁷⁴¹ A/64/352, section IV, para. 87.

⁷⁴² Ibid., para. 88.

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budgeted posts subject to geographical distribution.⁷⁴³ Later that same year, the ACABQ issued report A/64/518, in which it considered the composition of the Secretariat. In this report, the ACABQ urged the Secretary-General to intensify his efforts to achieve the geographical distribution and gender balance targets set by the General Assembly.⁷⁴⁴

276. In September 2010, during the sixty-fifth session of the General Assembly, the Secretary-General submitted another report on the issue of geographical distribution during the period under review (A/65/305 and A/65/305/Add.2). Report A/65/305/Add.2 included a review of the system of desirable ranges pursuant to resolution 63/250. It also reviewed “the origin and the purpose of the system of desirable ranges and the changes that have taken place since 1945 and updates the scenarios presented in the report of the Secretary-General entitled “Comprehensive assessment of the system of geographical distribution and assessment of the issues relating to possible changes in the number of posts subject to the system of geographical distribution” (A/59/724). These updated scenarios provide information on how Member State representation could potentially change as a result of various changes to the system of desirable ranges.”⁷⁴⁵

277. The Secretary-General stated that his report showed the impact on the system of geographical distribution if changes were to be made to the weights of the existing factors (membership, population, and contribution) used in order to determine the desirable ranges of representation for Member States, as well as changes to the base figure of number of posts

⁷⁴³ Ibid., para. 91.

⁷⁴⁴ A/64/518, section V, para. 60.

⁷⁴⁵ A/65/305/Add.2, section I, para. 2.

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included in the system of desirable ranges. The Secretary-General further stated that the various scenarios described in his report showed how changing the weights of the factors would result in changes in the representation status of Member States, and that the same was true when the base figure was expanded to include staff currently not having geographic status.⁷⁴⁶

278. Report A/65/305 of the Secretary-General included a summary of the follow-up action taken by the Secretary-General to implement the requests of the General Assembly from its resolution 63/250, including requests by the ACABQ that had been endorsed by the General Assembly.⁷⁴⁷

279. Concerning the request of the General Assembly to “continue his ongoing efforts to attain equitable geographical distribution in the Secretariat and to ensure as wide a geographical distribution of staff as possible in all departments, offices and levels, including the Director level and higher levels, of the Secretariat,”⁷⁴⁸ and the Assembly’s request that “the Secretary-General [...] take all necessary measures to ensure, at the senior and policymaking levels of the Secretariat, equitable representation of Member States, especially those with inadequate representation at those levels, and to continue to include relevant information thereon in all future reports on the composition of the Secretariat,”⁷⁴⁹ the Secretary-General stated that the human resources management scorecard (formerly human resources action plans) would monitor performance towards geographical and gender targets.⁷⁵⁰ Further, the Secretary-General

⁷⁴⁶ Ibid., section V, para. 42.

⁷⁴⁷ A/65/305 Annex, section IX.

⁷⁴⁸ Ibid.

⁷⁴⁹ Ibid.

⁷⁵⁰ Ibid.

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stated that he had requested that three candidates, including one female candidate, be submitted through the Senior Review Group for selection of candidates at the D-2 level, and outreach efforts had been increased (including visits to universities with a large composition of international students from unrepresented and underrepresented countries).⁷⁵¹

280. Regarding the General Assembly's request that the Secretary-General post action plans on the United Nations Intranet, the Secretary-General stated that this task had been completed.⁷⁵²

281. Additionally, concerning the General Assembly's request "to the Secretary-General to reduce, to the extent possible, the number of unrepresented and underrepresented Member States in the Secretariat by 30 per cent by 2010, compared to the level in 2006, and [...] to report to the General Assembly thereon, as appropriate, in the context of his report on human resources management,"⁷⁵³ the Secretary-General stated that from 2006 to 2010, the number of unrepresented countries had decreased from 18 to 12, but the number of underrepresented countries had increased from 11 to 31, and that further details were provided in the report of the Secretary-General on the composition of the Secretariat (A65/350).⁷⁵⁴

282. Concerning the request of the General Assembly that the Secretary-General "submit to the General Assembly, at its sixty-fifth session, proposals for a comprehensive review of the system of desirable ranges, with a view to establishing a more effective tool to ensure equitable geographical distribution in relation to the total number of staff of the global United

⁷⁵¹ Ibid.

⁷⁵² Ibid.

⁷⁵³ Ibid.

⁷⁵⁴ Ibid.

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Nations Secretariat,”⁷⁵⁵ the Secretary-General stated that the above report on desirable ranges (A/65/305/Add.2) addressed that request.⁷⁵⁶

283. In regards to the General Assembly’s request that the Secretary-General diversify the pool of candidates for senior level positions in the Organization, the Secretary-General stated that he had made concerted efforts in the regard.⁷⁵⁷

284. After the release of this report by the Secretary-General, the ACABQ issued report A/65/537, which included an assessment of the system of geographic distribution.⁷⁵⁸ In this report, the ACABQ stated that it believed that the above report of the Secretary-General did not adequately respond to the request of the General Assembly, as no new elements were introduced that could enhance the effectiveness of the system.⁷⁵⁹ Further, the ACABQ pointed out that there were a number of technical issues in the report.⁷⁶⁰

285. Additionally, the ACABQ stated that while it considered this issue a matter of policy for the General Assembly, the report of the Secretary-General provided no recommendations and little basis upon which to make a decision on any change to the system of desirable ranges.⁷⁶¹ The ACABQ further stated that it would be up to the General Assembly to decide whether to provide further guidance to the Secretary-General in this matter.⁷⁶²

⁷⁵⁵

Ibid.

⁷⁵⁶

Ibid.

⁷⁵⁷

Ibid.

⁷⁵⁸

A/65/537, section IV, para. 59.

⁷⁵⁹

Ibid., para. 61.

⁷⁶⁰

Ibid., para. 61.

⁷⁶¹

Ibid., para. 62.

⁷⁶²

Ibid.

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286. In December 2010, near the end of the period under review, the General Assembly adopted resolution 65/247. In this resolution, the General Assembly repeated its request for the Secretary-General to submit proposals for a comprehensive review of the system of desirable ranges, with a view towards establishing a more effective tool to ensure equitable geographical distribution in relation to the total number of staff of the global United Nations Secretariat,⁷⁶³ and reiterated its request that the Secretary-General present proposals to effectively increase the representation of developing countries in the Secretariat and to report thereon to the General Assembly at its sixty-seventh session.⁷⁶⁴ Finally, the General Assembly reaffirmed that the system of geographical distribution was applicable solely to regular budget posts in the Professional and higher categories of staff.⁷⁶⁵ No further action concerning the issue of geographical distribution was taken during the period under review.

2. Improvement of the status of women in the United Nations system

287. In 2006, during the sixty-first session of the General Assembly, the International Civil Service Commission (ICSC) issued its annual report.⁷⁶⁶ Under its mandate from the General Assembly to periodically review the representation of women in the Common System organizations, the ICSC requested its secretariat to report on the latest progress of the representation of women, including information on the representation of women by region, as

⁷⁶³ G A resolution 65/247, section VII, para. 63.

⁷⁶⁴ Ibid.

⁷⁶⁵ G A resolution 65/247, section VII, para. 67.

⁷⁶⁶ A/61/30.

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well as on the gender plans of organizations and their development, implementation and effectiveness.⁷⁶⁷

288. In this report, the ICSC decided to take note of the information provided by its secretariat regarding the representation of women in the Professional and higher categories in Common System organizations, and expressed its disappointment at the insufficient progress made, particularly at the senior level.⁷⁶⁸ As a result, the ICSC urged the Common System organizations to designate a senior level focal point for gender issues in order to provide leadership in formulating appropriate plans and strategies for achieving gender balance, including responsive workforce and succession planning to cater for retirements, if the organizations had not already done so.⁷⁶⁹ The ICSC further encouraged the organizations to hold managers accountable for achieving established gender goals through their annual performance appraisal, stated that it would continue to monitor future progress in achieving gender balance every two years, and requested its secretariat to provide a report on the issue at its sixty-seventh session in July 2008.⁷⁷⁰

289. The General Assembly took note of the findings presented by the ICSC in its above report on 22 December, 2006.⁷⁷¹ At the same time, the General Assembly noted with disappointment the insufficient progress made concerning the representation of women in the

⁷⁶⁷ Ibid., section C, para. 96.

⁷⁶⁸ Ibid., section C, para. 112(a).

⁷⁶⁹ Ibid., 112(b).

⁷⁷⁰ A/61/30, section C, para. 112(d),(f).

⁷⁷¹ G A resolution 61/239, section II(D), para. 1.

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United Nations Common System, particularly the significant underrepresentation at senior levels.⁷⁷² The General Assembly further urged the ICSC to continue to make recommendations on practical steps that should be taken to improve the representation of women within the organizations of the United Nations Common System.⁷⁷³

290. Also during the sixty-first session of the General Assembly, the Secretary-General issued a report concerning the improvement of the status of women in the United Nations system.⁷⁷⁴ This report was conducted pursuant to General Assembly resolution 59/164. The Secretary-General stated that in both the United Nations system and the Secretariat, the representation of women in the Professional and higher categories remained almost static (showing negligible improvement in most cases, and a decrease in some) during 2004 (for the United Nations system) and from 2004 to 2006 (for the Secretariat).⁷⁷⁵ The Secretary-General then stated that more concerted efforts were clearly required in order to achieve gender parity at all levels and categories, and particularly at the senior and policymaking levels.⁷⁷⁶

⁷⁷² Ibid., para. 2.

⁷⁷³ Ibid., para. 4.

⁷⁷⁴ A/61/318.

⁷⁷⁵ A/61/318 states “[f]or example, the D-1 level stood at 25.3 per cent, a decrease of 6.95 per cent and the most striking since 2004. In the United Nations system, one positive development was an increase in the number of women resident coordinators, from 21 per cent in 2004 to 32.5 per cent in July 2006.” In paragraph 81 in section VII of this report, the Secretary-General further concluded that, “[w]ith respect to the Secretariat in particular, between 30 June 2004 and 30 June 2006, the representation of women in decision making posts, at the Under-Secretary-General to D-1 levels, decreased by 3.71 per cent, with the largest decrease of 6.95 per cent registered at the D-1 level. In the Professional category a negligible increase of 0.37 per cent was registered. Moreover, the trend in cumulative growth for the Professional category of staff is particularly discouraging, averaging a marginal 0.35 per cent between 1998 and 2006.”

⁷⁷⁶ Ibid.

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291. Previously, the General Assembly had requested an analysis of the causes of the slow advancement of women in its resolution 57/180. This report was phase II⁷⁷⁷ of that request, namely an analysis of the United Nations system.⁷⁷⁸ This report identified several key factors: “gender strategy; gender planning statistics; recruitment and selection processes; development and career planning; mobility; working climate and culture; accountability; and informal barriers.”⁷⁷⁹ The analysis of the Secretary-General included a number of conclusions.

292. Among the conclusions, the Secretary-General found that the influence of the working climate and culture on career progression and productivity was clear.⁷⁸⁰ The analysis revealed that “the objective of introducing work/life policies to attract and retain quality staff, especially women, has not yet had a positive impact on the current managerial culture, which continues to view those policies both as a barrier to efficiency and productivity and as incompatible with career advancement and the performance of managerial level posts. That attitude requires change.”⁷⁸¹

293. Further, the Secretary-General reported that mobility across jobs, departments and duty stations can help women’s careers.⁷⁸² The Secretary-General then stated that effective career and succession planning was imperative.⁷⁸³ The Secretary-General also reported that the mobility

⁷⁷⁷ A/61/318 states that phase I of the analysis (an analysis of the Secretariat) was submitted to the General Assembly in A/59/357.

⁷⁷⁸ Ibid.

⁷⁷⁹ Ibid.

⁷⁸⁰ Ibid.

⁷⁸¹ Ibid., section VII, para. 82.

⁷⁸² Ibid., para. 83.

⁷⁸³ Ibid.

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of women staff members would be facilitated by the availability of the opportunity for spouse employment and women's access to informal networks and sponsors.⁷⁸⁴ Additionally, a more flexible view of mobility through enhanced inter-agency and interdepartmental mobility, as well as a credit system that would allow a more phased approach to mobility throughout the career phases was suggested by the analysis.⁷⁸⁵

294. The report also identified accountability as especially critical.⁷⁸⁶ As such, the Secretary-General concluded that while the Office of Human Resources Management and the Office of the Special Adviser on Gender Issues held important advisory and monitoring functions, departmental accountability for gender balances (particularly at the level of program managers and on a continuous basis) was fundamental.⁷⁸⁷

295. The Secretary-General additionally concluded that transparency and systematic year-long implementation and monitoring of the special measures for gender equality within the departments was vital, and that an active system of monitors and facilitators from within departments and offices that formally participated in the pre-selection processes provided a useful support mechanism for managers.⁷⁸⁸ Further, the Secretary-General stated that such a

⁷⁸⁴ Ibid.
⁷⁸⁵ Ibid.
⁷⁸⁶ Ibid., para. 84.
⁷⁸⁷ Ibid.
⁷⁸⁸ Ibid., para. 85.

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system would entail “establishment of focal points who would monitor and promote gender balance.”⁷⁸⁹

296. The Secretary-General continued, and stated that the United Nations system had established many elements required for an effective gender balance system.⁷⁹⁰ However, those elements needed to be enhanced and strengthened by special measures adapted to the staff selection systems and further enhanced and strengthened by clearly defined organizational responsibilities for gender balance at all levels.⁷⁹¹ However, actions within the United Nations system alone would be insufficient. The Secretary-General further stated that Member States would have to establish and promote mechanisms within their own respective systems to encourage qualified women to apply for positions within the United Nations System.⁷⁹²

297. In 2008, the ICSC continued its biennial review of the progress towards achieving gender balance as stated in its report A/61/30 of 2006.⁷⁹³ In this report,⁷⁹⁴ the ICSC noted the General Assembly’s urging of the ICSC to continue making recommendations on practical steps to improve the representation of women in the organizations of the United Nations common

⁷⁸⁹ Ibid.

⁷⁹⁰ Ibid, para. 89.

⁷⁹¹ Ibid.

⁷⁹² A/61/318, Sec. VII, para. 90 states that, “Member States would have to establish and promote mechanisms within their own respective systems to encourage qualified women from both governmental and nongovernmental sources to apply for positions in the organizations and agencies of the United Nations system.”

⁷⁹³ A/63/30.

⁷⁹⁴ Ibid.

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system.⁷⁹⁵ As a part of this review, the ICSC requested its secretariat to provide a report on the issue.⁷⁹⁶

298. The report of the ICSC secretariat included staffing data on then-current composition, recruitment, promotion, separation and retirement by gender and level, as well as data on the distribution of staff members by gender and region.⁷⁹⁷ The report further analyzed available gender-sensitive policies and “measures for recruitment, promotion, retention (work/life policies), gender awareness, including policies on harassment, and monitoring and accountability that support a work environment conducive to achieving gender balance in the organizations.”⁷⁹⁸

299. The decisions were set forth by the ICSC in its biennial review in 2008,⁷⁹⁹ wherein the ICSC noted with disappointment that many organizations had not yet implemented its previous recommendations included in its 2006 report⁸⁰⁰ (discussed above), and the ICSC reiterated those recommendations.⁸⁰¹ Further, the ICSC expressed serious concern that the goal of a 50/50 gender balance (especially at the D-1 level and above) remained unmet with negligible improvements.⁸⁰²

⁷⁹⁵ Ibid., para. 96.

⁷⁹⁶ Ibid., para. 95.

⁷⁹⁷ Ibid., para. 97.

⁷⁹⁸ Ibid.

⁷⁹⁹ A/63/30.

⁸⁰⁰ A/61/30.

⁸⁰¹ A/63/30, para. 109(b).

⁸⁰² Ibid., para. 109(a).

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300. In addition to the recommendations set forth in its previous report A/61/30, the ICSC urged organizations to consider granting selection/promotion review bodies the authority to overrule selection decisions when a qualified man was selected over an equally qualified woman, until the 50/50 gender goal was met at all levels as a special measure.⁸⁰³ Further, the ICSC decided to take leadership in instituting systematically designed mandatory exit interviews in all organizations, and, therefore, requested its secretariat in collaboration with the representatives of organizations and staff bodies, to develop a questionnaire for exit interviews to be used across the common system.⁸⁰⁴ Finally, the ICSC requested its secretariat to explore the feasibility of establishing an inter-agency roster of qualified women to be available to organizations of the United Nations common system.⁸⁰⁵

301. During its sixty-third session, the General Assembly noted the above decisions of the ICSC, and further noted its disappointment with the insufficient progress made regarding the representation of women in the organizations of the United Nations common system, particularly in regard to the underrepresentation of women at senior levels.⁸⁰⁶ Once again, the Assembly invited the ICSC to continue to monitor future progress in achieving gender balance, “including the aspect of regional representation if it deems it appropriate, and to make recommendations on

⁸⁰³ Ibid., para. 109(c).

⁸⁰⁴ Ibid., para. 109(d).

⁸⁰⁵ Ibid., para. 109(e).

⁸⁰⁶ G A resolution 63/251, section 5, paras. 1,2.

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practical steps that should be taken to improve the representation of women in the organizations of the United Nations common system[.]”⁸⁰⁷

302. In 2009, the ICSC considered reports that provided updates on the feasibility of establishing an inter-agency roster of qualified women, and on the progress towards developing a well-structured exit interview questionnaire.⁸⁰⁸ In this report, the ICSC decided to not pursue the establishment of the aforementioned inter-agency roster, because experience elsewhere had shown that such measures were not cost-effective and did not serve any practical purposes.⁸⁰⁹ Further, the ICSC requested that its secretariat, “work closely with the [United Nations System Chief Executives Board for Coordination] secretariat and staff representatives to finalize and pilot a standard exit interview questionnaire for use across the United Nations common system, and to identify the mechanism for central data reporting.”⁸¹⁰

303. The ICSC also encouraged the organizations of the United Nations common system to take full advantage of the window of opportunity created by the then-upcoming high turnover rates due to retirements over the next five years, and further encouraged the organizations to promote and implement innovative approaches to attract, develop, and retain the best talent (either men or women).⁸¹¹

⁸⁰⁷ Ibid., para. 1.

⁸⁰⁸ A/64/30.

⁸⁰⁹ A/64/30 and Corr. 2, para. 88.

⁸¹⁰ A/64/30.

⁸¹¹ A/64/30 and Corr. 2, para. 88(b,d) stated that such approaches would include, “outreach initiatives, targeted recruitment, timely induction training programmes, policies for work/life balance,

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304. The General Assembly, through resolution 64/231, welcomed the decision by the ICSC to encourage the organizations to promote and implement innovative approaches to attract, develop, and retain the best talent, but also once again noted its disappointment with the insufficient progress made with regard to the representation of women in the organizations of the United Nations common system (particularly at the senior-levels).⁸¹² The General Assembly also requested that the ICSC review measures taken by organizations participating in the common system concerning the implementation of paragraph three of Article 101 of the United Nations Charter and to report its findings, as appropriate.⁸¹³ Finally, the Assembly invited the ICSC to continue to monitor future progress in achieving gender balance, and encouraged the ICSC to consider further issues related to the retention of female staff.⁸¹⁴

305. The ICSC, in its next biennial review (2010),⁸¹⁵ once again decided to express its concern that the goal of 50/50 gender balance remained unmet and without any notable progress (especially at the D-1 level and above), and noted with disappointment that the organizations had not implemented all of the ICSC's previous recommendations.⁸¹⁶ The ICSC further recalled the recommendations it had set forth in its previous reports and urged organizations to enforce the then-existing gender balance policies and measures, as well as to conduct regular monitoring on

flexible working arrangements, career coaching, mentoring and counselling programmes, career development programmes[.]”

⁸¹² G A resolution 64/231, section 3, paras. 1,4.

⁸¹³ Ibid., para. 5.

⁸¹⁴ Ibid., paras. 3,6.

⁸¹⁵ A/65/30.

⁸¹⁶ Ibid., paras. 155 (a,b).

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the level of implementation⁸¹⁷. Additionally, the ICSC urged the organizations to incorporate such diversity policies as geographical balance into gender strategies and policies.⁸¹⁸ Finally, the ICSC decided to monitor the future progress in achieving gender balance in the organizations of the United Nations common system every four years (as opposed to every two years, which was the then-schedule), and it requested that its secretariat provide a report on the issue in 2014.⁸¹⁹ There were no further actions taken on this matter during the period under review.

D. Conditions of service

1. Strengthening the International Civil Service Commission

306. During the period of 2006 - 2010, the International Civil Service Commission (ICSC) continued to regulate and coordinate the conditions of service, salaries, and staff allowances of the United Nations common system. At its sixty-first session, the General Assembly encouraged the ICSC⁸²⁰ to continue to consider its working methods in consultation with the representatives of the staff and the organizations of the common system where appropriate.⁸²¹

⁸¹⁷ Ibid., paras. 155 (c,d).

⁸¹⁸ Ibid., para. 155 (e).

⁸¹⁹ Ibid., para. 155 (h).

⁸²⁰ In G A Resolution 61/239, the General Assembly expressed its encouragement after, “[considering] the reports of the International Civil Service Commission for the years 2004, 2005 and 2006, the note by the Secretariat transmitting the report of the Panel on the Strengthening of the International Civil Service and the note by the Secretary-General on the findings and recommendations of the Panel.” *See also* A/59/30, A/60/30 and Corr.1, A/61/30, A/59/153, A/59/399.

⁸²¹ G A resolution 61/239, section III, para. 8.

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307. In 2007, the ICSC issued a report⁸²² that examined strengthening its role and functioning. Prior to this report and before the sixty-fifth session of the ICSC, members of the ICSC and its secretariat held a retreat in order to consider ways to strengthen the ICSC and to maximize the ICSC's ability to support the General Assembly in guiding the common system. At this time, four specific important goals were identified.

308. The first goal was to refocus the role of the ICSC as a regulatory and coordinating body (within its existing statute), recognizing that the common system required both coherence and flexibility.⁸²³ The second goal that was identified was to strengthen and/or develop the ICSC's roles in: "(i) [s]trategic planning of the work of the Commission; (ii) [p]olicy development and guidance; (iii) [c]oordination among stakeholders; (iv) [m]onitoring/compliance; [and] (v) [r]egulation[.]"⁸²⁴ The third important goal identified was to streamline and simplify the ICSC's then-current activities to achieve the stated objectives with its current resources.⁸²⁵ The fourth and final important objective identified by the ICSC in its report was to develop an action plan aimed at building a more efficient, effective, strategic ICSC by: "(i) [b]uilding a more solid personnel database for analysis and decision making through use of the Enterprise Resource Planning systems and improving the exchange of information and data between the Commission and the organizations of the common system; [and] (ii) [m]aintaining an inventory of best practices both within and outside the common system."⁸²⁶

⁸²² A/62/30.

⁸²³ Ibid., para. 68(a).

⁸²⁴ Ibid., para. 68(b).

⁸²⁵ Ibid., para. 68(c).

⁸²⁶ Ibid., para. 68(d).

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309. During the subsequent sixty-second session of the General Assembly, the Assembly welcomed the steps taken by the ICSC to strengthen its role and improve its functioning as stated in the aforementioned ICSC report and encouraged the ICSC to continue in this process.⁸²⁷

310. In 2008, during its sixty-third session, the General Assembly emphasized that the capacity of the ICSC as a source of technical expertise and policy advice should be further strengthened, stressed that the work of the ICSC would be given the attention and importance it deserved by the governing bodies of the common system organizations, and requested that the ICSC closely monitor the developments in those organizations in order to ensure the effective regulation and coordination of the common system's conditions of service.⁸²⁸ There was no more activity on this matter during the period of 2006 - 2010.

2. Harmonization of Conditions of Service

311. From 2006 to 2007, the Secretary-General issued two reports concerning the harmonization of the conditions of service during the sixty-first session of the General Assembly. The first of these was A/61/255, a report on investing in people, and the second was A/61/861, the follow-up report on the harmonization of conditions of service. In these reports, the Secretary-General presented a package of human resources reforms which involved simplifying

⁸²⁷ G A resolution 62/227, section II, para. 2.

⁸²⁸ G A resolution 63/251, section E, paras. 1-3.

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the contractual arrangements and harmonizing the conditions of service of Secretariat staff in non-family duty stations with those of the United Nations agencies, funds and programs.

312. In his first report, one of the Secretary-General's proposals provided for the harmonization of conditions of service to meet the needs of an increasingly field-based organization. The Secretary-General proposed to harmonize the conditions of service of Secretariat staff in the field with those of the United Nations funds and programs by designating field missions in line with security phases, introducing the special operations approach for non-family duty stations where appropriate, and revising the scheme for rest breaks and streamlining administration, including through lump-summing.⁸²⁹ The Secretary-General further stated that such an introduction of the special operations approach would require the replacement of staff rule 103.21 on salary and allowances during mission assignments with a new rule elaborating conditions of service for non-family duty stations.⁸³⁰

313. Further, in this report, the Secretary-General requested that the General Assembly approve in principle the aforementioned harmonization and decide to revert to the issue of the resources necessary to enact such a harmonization at the time of the Assembly's consideration of the report of the International Civil Service Commission (ICSC) on the compensation package in

⁸²⁹ A/61/255.

⁸³⁰ Ibid., para. 289.

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non-family duty stations to be submitted to the General Assembly during its resumed sixty-first session.⁸³¹

314. The General Assembly reviewed the above proposals by the Secretary-General, noted that the ICSC had, at that time, established a working group to review the conditions of service of international staff serving at non-family duty stations, and then requested that the Secretary-General submit a comprehensive report on the issue at the second part of the Assembly's resumed sixty-first session (which was to include possible financial implications).⁸³²

315. During the resumed sixty-first session of the General Assembly, the ICSC submitted its report for the year 2006.⁸³³ In this report, the ICSC submitted a number of recommendations for the harmonization of the designation of duty stations as family/non-family duty stations, stating that it was essential to harmonize the designations of duty stations for the fair and equitable treatment of all staff in the common system.⁸³⁴ Regarding the harmonization of staff contracts and associated elements, the ICSC decided to recommend that all common system organizations harmonize the designation of duty stations "in accordance with the security phase

⁸³¹ Ibid., paras. 299(d,e).

⁸³² G A resolution 61/244, section VII, para. 5.

⁸³³ A/61/30/Add.1.

⁸³⁴ Ibid., section 5, para. 36 stated that it was essential to harmonize the designations for duty stations because, "[w]ith the exception of United Nations peace operations, all organizations of the common system have established non-family duty stations on the basis of security phases 3, 4 and 5, as designated by the Department of Safety and Security. On the other hand, the United Nations had decided, independent of the security phase, to designate all the special missions as non-family duty stations. The Commission noted that the family/non-family status of the duty station determined whether or not the organization would permit relocation of the family. There was also a significant difference in compensation and other conditions of service based on the family/nonfamily status."

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decided by the Department of Safety and Security and the approach as applied by the Inter-agency Committee on Field Duty Stations of the Human Resources Network of the United Nations System Chief Executives Board for Coordination (CEB).”⁸³⁵

316. Further, the ICSC decided to recommend that the appointments of limited duration (300 series appointments) be phased out in non-family duty stations, and be replaced by the fixed-term contracts as defined in the ICSC contractual framework.⁸³⁶ Further, the ICSC recommended that all fixed-term contracts in non-family duty stations contain the compensation package recommended by the ICSC.⁸³⁷ The ICSC also recommended the phase out of mission-specific 100-series contracts, as they lacked the flexibility needed to move staff among field duty stations, and could not respond to the need for a global workforce.⁸³⁸ Further, the ICSC decided that staff members “on 100-series mission-specific contracts serving at non-family duty stations, designated special missions, should receive the same compensation and benefits as those normally given to internationally recruited Professional staff assigned to family duty stations when the duty station designation is changed from non-family to family.”⁸³⁹

317. Regarding the harmonization of rest breaks, the ICSC decided to recommend that rest breaks be harmonized in the areas of the payment of travel and daily subsistence

⁸³⁵ A/61/30/Add.1, section 5, para. 36.

⁸³⁶ Ibid., para. 37.

⁸³⁷ Ibid.

⁸³⁸ Ibid., para. 42.

⁸³⁹ Ibid.

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allowance.⁸⁴⁰ The ICSC recommended that all organizations of the common system that were paying daily subsistence allowance for rest breaks should discontinue such payments, and the Department of Peacekeeping Operations should arrange for, or reimburse, travel as with the special operations approach.⁸⁴¹ The ICSC further decided that the daily subsistence allowance should only be paid on an exceptional basis in connection with rest breaks, such as when the organization was unable to provide travel or make arrangements for the staff member to travel to the approved rest and recuperation location.⁸⁴²

318. In April 2007, the Secretary-General submitted his follow up report on the issue.⁸⁴³ In this report, the Secretary-General noted the ICSC's recommendation of the discontinuation of 300-series appointments in non-family duty stations.⁸⁴⁴ Further, subsequent to the ICSC's report, the Secretariat revised its proposals relating to the harmonization of conditions of service in non-family duty stations to include the following:

- “(a) Introduce the special operations approach for all non-family duty stations that are in security phase III or higher;
- (b) Replace the occasional recuperation break with rest and recuperation travel;

⁸⁴⁰ Ibid., para. 45.

⁸⁴¹ Ibid.

⁸⁴² Ibid.

⁸⁴³ A/61/861.

⁸⁴⁴ A/61/30/Add.1 (*See* Official Records of the General Assembly, Sixty-first Session, Supplement No. 30.)

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(c) Discontinue the use of 300-series appointments in non-family duty stations.⁸⁴⁵

319. In 2009, the General Assembly, after considering the proposals of the Secretary-General and the recommendations of the ICSC, approved the new contractual arrangements (discussed in another chapter of this repertory) which would comprise three types of appointments: temporary, fixed-term, and continuing, under one set of staff rules (effective 1 July 2009, as set out in General Assembly resolution 62/248 and subject to the provision of resolution 63/250).⁸⁴⁶ Additionally, the General Assembly decided that it would designate existing established missions as family missions and existing special missions as non-family missions,⁸⁴⁷ that all staff appointed or assigned to non-family missions would be installed in accordance with conditions of the United Nations common system (without the special-operations approach),⁸⁴⁸ that it would keep the issue of United Nations common system conditions of service in the field under review,⁸⁴⁹ and requested that the ICSC do the same.⁸⁵⁰ Finally, the General Assembly also approved the introduction of a rest a recuperation scheme to include travel time appropriate to the location, but no payment of travel to the staff member, for internationally recruited staff members in the United Nations field operations to replace the occasional recuperation break (effective 1 January 2009).⁸⁵¹

⁸⁴⁵ A/61/861, para. 10.

⁸⁴⁶ G A resolution 63/250, section II, para. 2.

⁸⁴⁷ Ibid., para. 26.

⁸⁴⁸ Ibid., para. 27.

⁸⁴⁹ Ibid., para. 29.

⁸⁵⁰ Ibid., para. 28.

⁸⁵¹ Ibid., para. 30.

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320. In 2010, the Secretary-General issued a report with an addendum on contractual arrangements and harmonization of conditions of service.⁸⁵² In his report, the Secretary-General stated that, pursuant to General Assembly resolution 63/250, a comprehensive plan was put into place in order to implement the aforementioned provisions of 63/250.⁸⁵³ The Secretary-General further appraised the General Assembly of the progress made in implementing the resolution, and gave a detailed account of the changes that had occurred.⁸⁵⁴

321. Additionally, the Secretary-General identified one of his priorities as making it possible for the United Nations Secretariat and the separately administered funds and programs to deliver results in the most effective manner.⁸⁵⁵ Further, he stated that in the interest of integrating the field and headquarters into a global workforce and enhancing inter-agency

⁸⁵² A/65/305/Add.1.

⁸⁵³ Ibid., para. 2.

⁸⁵⁴ A/65/305/Add.1, para. 2 stated that, “[a]fter a review of all staff on 300-series appointments of limited duration, 3,620 international staff in peacekeeping operations and special political missions were reappointed from 300-series to fixed term appointments under the new staff rules provisionally in effect as of 1 July 2009. In addition, all staff serving under the 200 series of the Staff Rules were reappointed under the new staff rules. The latter staff already had similar conditions of service to those under the new staff rules. The common system of allowances and benefits, without the special operations approach, was implemented in all non-family missions effective 1 July 2009. Internationally recruited staff appointed or assigned to a non-family duty station are now installed at the non-family duty station and receive payment of an assignment grant, a relocation grant for unaccompanied shipment, post adjustment, a mobility allowance, a hardship allowance, hazard pay and a rental subsidy, as applicable, for their place of assignment. As a transitional measure, those staff from Headquarters or other offices on detail assignment or reimbursable loan to a field mission and in place as of 30 June 2009 were permitted to remain in travel status for the duration of their assignment period. Any extension or any new mission assignment effective on or after 1 July 2009 was made as an assignment involving a change of duty station, with payment of post adjustment at the non-family duty station. This transitional measure expired on 30 June 2010. And effective 1 January 2009, the occasional recuperation break was replaced with a rest and recuperation scheme that included travel time in addition to five working days of leave not charged to annual leave.”

⁸⁵⁵ A/65/305/Add.1, section II(A), para. 6.

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mobility, it was imperative that the then existing gaps be closed and that conditions of service across the system be harmonized.⁸⁵⁶

322. The Secretary-General stated that while there had been significant progress in this area, there was more to be done.⁸⁵⁷ The Secretary-General further stated that the Professional staff turnover rate of 23.9 per cent was still high and hampered the ability of missions to perform effectively, and that the goal of harmonizing the conditions of service of Secretariat staff with those of the United Nations agencies, funds, and programs which “would allow for a truly global and coherent organization, has not yet been fully achieved.”⁸⁵⁸

323. The Secretary-General also addressed the General Assembly’s approval of the replacement of the occasional recuperation break with a rest and recuperation scheme that included travel time, but did not include paid travel.⁸⁵⁹ He stated that all other United Nations agencies, funds, and programs provided for paid travel to a designated location for rest and recuperation, that it was an operational imperative that staff working under very stressful conditions be able to take rest and recuperation breaks, and that the absence of paid rest and recuperation travel would limit, at times, the effective use of this incentive established to ensure recovery and sustainable working conditions.⁸⁶⁰

⁸⁵⁶ Ibid.
⁸⁵⁷ Ibid., para. 7.
⁸⁵⁸ Ibid.
⁸⁵⁹ Ibid., para. 10.
⁸⁶⁰ Ibid.

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324. In his report in 2010, the Secretary-General addressed several issues concerning the harmonization of conditions of service, and as such proposed the introduction of a modified version of the extended monthly security evacuation allowance provided for in the Field Security Handbook to the ICSC.⁸⁶¹ This amount would have been a flat rate of \$2,500 per month for international staff at non-family duty stations.⁸⁶² The ICSC considered this matter⁸⁶³ and proposed an approach in its 2010 report.⁸⁶⁴ The ICSC proposed that the approach should be:

“(a) To designate family and non-family duty stations in line with the security assessment;

(b) That there should be a harmonized approach to compensation, allowances and benefits for staff assigned to non-family duty stations that would replace the special operations approach used by the funds and programmes and specialized agencies, recognizing that serving in such areas with their family elsewhere represents an additional level of financial and psychological hardship. Staff paid at the dependency rate should receive an additional amount under the existing hardship scheme equivalent to the applicable dependency rate of the hardship allowance in category E duty stations. Staff paid at the single rate should receive an additional amount equivalent to half of the applicable single rate of the hardship allowance in category E duty stations. Staff should continue to receive the hardship allowance itself at the level applicable to the duty station in which they serve;

(c) That paid rest and recuperation should apply to all common system organizations.”⁸⁶⁵

⁸⁶¹ Ibid., para. 11.

⁸⁶² Ibid.

⁸⁶³ A/65/30.

⁸⁶⁴ Ibid.

⁸⁶⁵ A/65/305/Add.1, section II(B), para. 11.

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325. The Secretary-General, in line with the views of the ICSC, supported its recommendations that the designation of mission duty stations as “family” or “non-family” be harmonized on the basis of a security assessment and the practice of the United Nations agencies, funds, and programs,⁸⁶⁶ that the then existing hardship allowance should be changed in order for staff serving in non-family duty stations to receive an the additional amount described above,⁸⁶⁷ that the framework for rest and recuperation travel be introduced and consist of payment of travel expenses from the duty station to a designated location (as well as a lump-sum amount of \$750 as a contribution towards accommodations costs and terminal expenses, and United Nations transportation, when available, free of charge),⁸⁶⁸ and that the organizations within the common system should be encouraged to absorb the additional costs imposed by the rest and recuperation framework within existing resources.⁸⁶⁹ Further, the Secretary-General stated that, should the General Assembly approve the recommendations of the ICSC, the personal transitional allowance paid to staff who otherwise would have experienced a loss in compensation when moving to the new conditions of service approved by the Assembly in resolution 63/250 would be eliminated.⁸⁷⁰

326. Finally, the Secretary-General identified the actions he requested that the General Assembly consider. He requested the Assembly to consider endorsing the recommendations of the ICSC regarding the harmonization of conditions of service in non-family duty stations (as

⁸⁶⁶ Ibid., para. 12(a).

⁸⁶⁷ Ibid., 12(b).

⁸⁶⁸ Ibid., para. 12(c).

⁸⁶⁹ Ibid., para. 12(d).

⁸⁷⁰ Ibid., para. 13.

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reflected in the ICSC's 2010 report⁸⁷¹),⁸⁷² and consider requesting the ICSC to keep the issue of conditions of service in the field for the United Nations common system under review.⁸⁷³ No further action was taken on this matter during the period under review.

3. Allowances and Benefits

(a) Mobility and Hardship Allowance

327. This section addresses the mobility and hardship scheme that was in place in 2006. The scheme was a matrix comprised of three elements: mobility, hardship and non-removal.⁸⁷⁴ However, soon after the establishment of the scheme, the General Assembly expressed its concern and requested that the ICSC review the scheme.⁸⁷⁵

328. In 2003, the General Assembly⁸⁷⁶ requested further reviews by the ICSC of the mobility and hardship scheme, and in response to this request the ICSC requested its secretariat to present alternative approaches to the scheme. At its fifty-ninth session, the ICSC, having examined the proposals, concluded that the complexity of the review warranted the establishment of a working group to examine the wide range of issues involved.⁸⁷⁷

329. The overall results of the Working Group's reviews were presented to the ICSC at its sixty-first session in the summer of 2005 and included proposed changes to both the

⁸⁷¹ A/65/30.

⁸⁷² A/65/305/Add.1, section V, para. 72(a).

⁸⁷³ Ibid., para. 72(b).

⁸⁷⁴ A/60/30, Sec. III, para. 65.

⁸⁷⁵ A/60/30, Sec. III, para. 65.

⁸⁷⁶ G A resolution 57/285.

⁸⁷⁷ A/60/30, Sec. III, para. 66(d).

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mobility⁸⁷⁸ and hardship elements.⁸⁷⁹ The ICSC also provided a comparison between the then existing and proposed scheme in Annex II of its report.⁸⁸⁰

330. In addition, the Working Group also recommended to change the definitions for mobility and hardship as follows:⁸⁸¹ “[t]he concept of mobility includes movement within and across organizations, occupations and geographic locations. For the purpose of the mobility scheme, mobility is the geographic reassignment of a staff member for a period of one year or more from one duty station to another; [...] [f]or the purpose of the hardship scheme, hardship categorization assesses the overall quality of life at a duty station. In determining the degree of hardship, consideration is given to local conditions of safety and security, health care, education, housing, climate, isolation, or the availability of the basic amenities of life that result in a less than acceptable standard of living for staff and their families.”⁸⁸² The ICSC then decided to

⁸⁷⁸ A/60/30, section III, para. 69 stated that, “[the] [m]ajor changes proposed for the mobility element were that: (a) Flat amount payments would replace the percentages linked to the base/floor; (b) Differentials for single and dependency rates would be calculated by reference to flat amounts; (c) The number of assignments would be clustered for payment purposes; (d) Up to seven moves would be recognized instead of the current five; (e) No extension of payments for mobility would be allowed after five years in the same location; (f) Payments would be reviewed every three years by reference to: (i) The average movement of net base salary plus post adjustment in the eight headquarters of the United Nations system; (ii) Movement of the out-of-area index used for post adjustment based on inflation factors in 21 countries; (iii) The movement of the base/floor salary scale.”

⁸⁷⁹ A/60/30, section III, paras. 68,69,71 stated that, “[the] [m]ajor changes proposed for the hardship element were that: (a) Flat amount payments would replace the percentages linked to the base/floor; (b) Differentials for single and dependency rates would be calculated by reference to flat amounts; (c) Payments would be reviewed every three years by reference to: (i) The average movement of net base salary plus post adjustment in the eight headquarters of the United Nations system; (ii) The movement of the out-of-area index used for post adjustment based on inflation factors in 21 countries; (iii) The movement of the base/floor salary scale; (d) Higher payments would be made for assignments to more difficult duty stations.”

⁸⁸⁰ A/60/30, section III, paras. 70,72.

⁸⁸¹ Ibid., para. 75.

⁸⁸² Ibid., paras. 76,77.

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approve the proposed arrangements for mobility and hardship as set forth in Annex II of A/60/30, to implement the new system effective 1 July 2006, and to approve the definitions of hardship and mobility as outlined above.⁸⁸³

331. During the period under review, the General Assembly, through resolution 61/239, approved the definitions of hardship and mobility, as well as the proposed arrangements for mobility and hardship, and decided to implement the system effect 1 January 2007.⁸⁸⁴ The General Assembly also requested that the ICSC review the amounts payable under the mobility and hardship scheme every three years, with the first review to enter into effect on 1 January 2009.⁸⁸⁵ After review of the above matter by a Working Group of the ICSC, it decided to recommend a 5 percent increase be granted for the hardship and mobility allowances.⁸⁸⁶ This Working Group also examined some of the implementation issues faced by some of the organizations when introducing the then-new scheme in 2007 and the ICSC made a number of decisions on that issue as well.⁸⁸⁷ The General Assembly approved the revised level of the

⁸⁸³ Ibid., para. 108.

⁸⁸⁴ GA resolution 61/239, section I, paras. 2,4.

⁸⁸⁵ A/63/30, section C, para. 80.

⁸⁸⁶ Ibid., para. 94.

⁸⁸⁷ A/63/30, section C, para. 94, stated that the ICSC decided: “(b) To request its secretariat to suggest options for alternative adjustment factors or weightings for establishing the level of future amounts, for timely consideration before the methodological review planned for 2010; (c) To recommend that, with effect from 1 January 2009 the amounts of the mobility, hardship and non-removal elements continue to be adjusted according to changes in the personal status of the staff member or in the hardship classification of the duty station, as they were under the previous scheme, in the following circumstances only: (i) When the staff member changes duty station; (ii) When the hardship classification of a staff member’s current duty station changes; (iii) When a staff member has a change in dependency status from single to dependency, or from dependency to single; (iv) When a staff member is promoted from P-3 or equivalent to P-4 or equivalent, and from P-5 or equivalent to D-1 or equivalent; (v) During periods of special leave or separation. (d) To include among factors for consideration during the 2010 review of the scheme: (i) An overall evaluation of the scheme and its operation to determine whether it continues to

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hardship and mobility allowances, and welcomed the ICSC intent to review whether the mobility and hardship allowance continue to fulfill the purpose for which they were established.⁸⁸⁸ The General Assembly also requested the ICSC to report back to it on this matter during the General Assembly's sixty-fifth session, however, resolution 63/251 was the last activity on this matter during the period under review.⁸⁸⁹

(b) Education Grant

332. The ICSC, in its 2010 report (A/65/30), addressed the issue of the education grant. In part, the ICSC reviewed the eligibility criteria for receiving the grant,⁸⁹⁰ which included a review, by the secretariat of the ICSC, of: "(a) the minimum age for the receipt of the grant; (b) the maximum age for the receipt of the grant; and (c) the provision of the grant up to the end of the school year in which the child completes four years of postsecondary studies, irrespective of when a first-level university degree was attained."⁸⁹¹

333. The ICSC noted that the education grant eligibility criteria were harmonized through the organizations concerning the maximum age for receiving the grant (which was 25 years), but lacked harmonization concerning the minimum age. In regards to the minimum age, in many organizations the grant was payable if the child was 5 years or older at the beginning of

achieve its purpose and intent; (ii) An examination of the effectiveness and impact of the revised scheme on mobility; (iii) The rationale for payment of a mobility allowance in category H and A duty stations; (iv) A review of the relativities between the amounts of the grade-level groupings in order to ensure that the mobility of more senior staff, in particular, is adequately incentivized; (v) An examination of the need for a revision of the five-year ceiling on the payment of the mobility allowance; (vi) A re-examination of the three adjustment factors, and any weighting of them or their replacements."

⁸⁸⁸ G A resolution 63/251, section 4, paras. 2,3.

⁸⁸⁹ Ibid., para. 5.

⁸⁹⁰ A/65/30, section C, paras. 48, 48(a).

⁸⁹¹ Ibid., para. 50.

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the school year, or of the child turned 5 within three months of the school year.⁸⁹² However, several organizations paid the grant as long as the child turned 5 at any point in the school year, with proof that the child was enrolled in a full-time program. The members of the ICSC were of the view that the minimum age eligibility should be harmonized.⁸⁹³ Consequently, the ICSC decided to recommend that the General Assembly invite the organizations of the common system to harmonize the education grant eligibility criteria as follows:

“(i) Minimum age. The child is in full-time attendance at an educational institution at the primary level or above while the staff member is in the service of the organization. Education shall be deemed “primary” for the purposes of this criterion when the child is 5 years of age or older at the beginning of the school year or when the child reaches the age of 5 within three months of the beginning of the school year;

(ii) Maximum age. The grant will not normally be payable beyond the school year in which the child reaches the age of 25. If the child’s education is interrupted for at least one school year by national service, illness or other compelling reasons, the period of eligibility shall be extended by the period of interruption. In special education grant cases, it may be exceptionally extended until the child reaches the age of 28; Post-secondary education. The grant shall be payable up to the end of the school year in which the child completes four years of post-secondary studies, even if a degree is attained after three years;”⁸⁹⁴

334. In resolution 65/248, the General Assembly encouraged the organizations of the common system to adopt the education grant eligibility criteria detailed above, in order to harmonize the eligibility criteria for the education grant.⁸⁹⁵

⁸⁹² A/65/30.

⁸⁹³ A/65/30.

⁸⁹⁴ A/65/30, para. 62(a).

⁸⁹⁵ G A resolution 65/248, section 1, para. 2.

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c) Separation Payments

335. During its sixty-third session, the General Assembly modified Staff Regulation 9.3 to read as follows: “(d) [t]he Secretary-General may, where the circumstances warrant and he or she considers it justified, pay to a staff member terminated, provided that the termination is not contested, a termination indemnity payment not more than 50 per cent higher than that which would otherwise be payable under the Staff Regulations.”⁸⁹⁶

336. Following this modification, and during the sixty-fourth session of the General Assembly, the ICSC concluded its review of separation payments (including termination indemnity and the repatriation grant) in A/64/30.⁸⁹⁷ Four primary issues had been identified for the ICSC’s consideration, with a view towards streamlining the separation payment scheme in the common system.⁸⁹⁸ First, variations existed in termination indemnity schedules across organizations and contract types.⁸⁹⁹ Second was the possible introduction of an end-of-service grant that stemmed, in particular, from the inequality in treatment of staff on fixed-term contracts at the time of separation due to the expiration of their contracts.⁹⁰⁰ Third was that there existed cross-organizations variations concerning eligibility for the repatriation grant.⁹⁰¹ Fourth was that

⁸⁹⁶ GA resolution 63/271, Annex.

⁸⁹⁷ A/64/30, section C, para. 36.

⁸⁹⁸ Ibid.

⁸⁹⁹ Ibid., para. 36(a).

⁹⁰⁰ Ibid., para. 36(b).

⁹⁰¹ Ibid., para. 36(c).

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there were “concerns about the inconsistency of the name “repatriation grant” with the scope of the grant.”⁹⁰²

337. After the ICSC’s review, it decided to recommend that the General Assembly invite the governing bodies of the common system organizations to harmonize their termination indemnity schedules with that of the United Nations, as approved in General Assembly resolution 63/271, annex II.⁹⁰³ Further, the ICSC decided to recommend that the General Assembly “introduce end-of-service severance pay for fixed-term staff separating from the organization upon the expiration of contract after 10 years of continuous service in those organizations which [had] introduced and implemented the new contractual framework, as defined by ICSC in its 2005 annual report, subject to the conditions and schedule provided in annex III[.]”⁹⁰⁴ Finally, the ICSC decided to monitor the introduction of end-of-service severance pay as an integral part of the then new contractual system.⁹⁰⁵

338. In General Assembly resolution 64/231, the Assembly took note of the recommendation above concerning end-of-service severance pay for fixed-term staff, and decided to revert to this question at its sixty-fifth session.⁹⁰⁶ Further, the General Assembly noted the recommendation of the ICSC above concerning the harmonization of the termination

⁹⁰² Ibid., para. 36(d).

⁹⁰³ Ibid., para. 59(a).

⁹⁰⁴ Ibid., para. 59(b).

⁹⁰⁵ Ibid., paras. 59(c), 60.

⁹⁰⁶ G A resolution 64/231, section 1, paras. 1,2.

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indemnity schedules, and requested that the ICSC review the application of termination indemnity and report thereon to the Assembly at its sixty-fifth session.⁹⁰⁷

339. During the sixty-fifth session of the General Assembly, the ICSC issued report A/65/30, which reviewed the application of termination indemnity as requested by the General Assembly in the above resolution.⁹⁰⁸ The ICSC reported that it had reviewed roughly 1,200 cases of termination indemnity paid by common system organizations in 2007, 2008, and 2009.⁹⁰⁹ In the period, the ICSC reported that the termination indemnity was used on a limited basis and covered roughly 1 percent of the total General Service and Professional staff and roughly 14 percent of all separations.⁹¹⁰ Further, that while “some fluctuations in termination indemnity numbers did exist among the organizations and contract types, the analysis of the available data did not demonstrate that there was inappropriate application of the scheme, and that the overall termination indemnity-based separation trends appeared to be driven by the operational needs of the organizations.”⁹¹¹

340. During its sixty-fifth session, the General Assembly, in resolution 65/248, endorsed the conclusions of the ICSC stated above, and invited the governing bodies of the organizations of the United Nations Common System to harmonize their termination indemnity schedules with that of the United Nations (as approved in General Assembly resolution

⁹⁰⁷ Ibid., para. 3.

⁹⁰⁸ A/65/30, section E, para. 93.

⁹⁰⁹ Ibid., para. 101(a).

⁹¹⁰ Ibid., para. 101(b).

⁹¹¹ Ibid., para. 101(c).

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63/271).⁹¹² Further, the General Assembly decided to revert to the aforementioned end-of-service severance pay issue at its seventy-first session, and requested that the ICSC promulgate guidelines for the Organization to follow when it terminates a staff member based on the agreement of both sides.⁹¹³

C. Administration of Justice at the United Nations

(a) The Office of the Ombudsman

341. In 2006, the Redesign Panel on the United Nations system of administration of justice (Redesign Panel) issued report A/61/205. In this report, the Redesign Panel recommended a single, integrated, decentralized Office of the Ombudsman for the United Nations Secretariat and the funds and programs (Office of the Ombudsman), that should be strengthened by combining the functions of formal mediation with proactive monitoring of maladministration.⁹¹⁴ Additionally, the Redesign Panel recommended that the Panels on Discrimination and Other Grievances be abolished, and their informal functions should be transferred to the Office of the Ombudsman, and the rest of their functions to the formal system of justice.⁹¹⁵ Regarding mediation, this report recommended that a Mediation Division be established within the Office of the Ombudsman.⁹¹⁶

⁹¹² G A resolution 65/248, section 2, para. 1.

⁹¹³ Ibid., paras. 2,3.

⁹¹⁴ A/61/205, paras. 164, 166.

⁹¹⁵ Ibid., para 168.

⁹¹⁶ Ibid., paras. 167.

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342. Subsequently, the Secretary-General issued note A/61/758, on the report of the Redesign Panel. In this note, the Secretary-General recognized the importance of effective and timely informal dispute resolution and supported the Redesign Panel's recommendation to establish a single integrated Office of the Ombudsman.⁹¹⁷ The Secretary-General also endorsed the recommendation of the Staff-Management Coordination Committee (SMCC) that regional Ombudsmen should be appointed to duty stations in Addis Ababa, Bangkok, Beirut, Dakar, Geneva, Nairobi, New York, Santiago and Vienna and to the peacekeeping missions in the Democratic Republic of the Congo, Liberia and the Sudan.⁹¹⁸ The proposal to place an Ombudsman in Dakar was intended to enhance access for staff based in francophone countries in West Africa.⁹¹⁹ The Secretary-General also endorsed the recommendations of the Redesign Panel concerning the Panels on Discrimination and Other Grievances.⁹²⁰

343. Regarding mediation, in his report,⁹²¹ the Secretary-General supported the Redesign Panel's recommendation to establish a Mediation Division to strengthen the Office of the Ombudsman.⁹²² The Secretary-General also supported the SMCC agreement (reached after intensive consultations with the staff and management)⁹²³ that any settlement reached at the end

⁹¹⁷ A/61/758, para. 12.

⁹¹⁸ Ibid., para. 14.

⁹¹⁹ Ibid.

⁹²⁰ Ibid., para. 15.

⁹²¹ Ibid.

⁹²² Ibid.

⁹²³ A/61/758, section IX, para. 47 stated that "[t]he Secretary-General has prepared the present comments on the recommendations of the Redesign Panel after having held intensive consultations with the staff and management, including at a dedicated session of the Staff-Management Coordination Committee. He considers that the recommendations of the Panel, with the modifications set out above, will provide the Organization with an effective internal justice system in which staff, management and

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of mediation should be signed and if necessary, followed, by an administrative decision and that a verbal or written statement made during the mediation process should remain confidential and would be inadmissible in subsequent litigation.⁹²⁴

344. Subsequent to the above report and note in 2006, the General Assembly adopted resolution 61/261. In this resolution, the General Assembly recognized that the informal resolution of conflicts was a crucial element of the system of administrative of justice and emphasized that all possible use should be made of the informal system in order to prevent unnecessary litigation.⁹²⁵ Further, the General Assembly decided to create a single, integrated, decentralized Office of the Ombudsman, and requested the Secretary-General to identify three posts for the Office of the Ombudsman in Geneva, Vienna, and Nairobi.⁹²⁶

345. In regards to mediation, the General Assembly affirmed mediation as an important component of an efficient and effective informal system of administration of justice, and decided to formally establish a Mediation Division located at Headquarters within the Office of the Ombudsman.⁹²⁷ The General Assembly also stressed that once parties had reached an agreement through mediation, they would be “precluded from litigating claims covered by the agreement and that parties should be able to bring an action in the formal system to enforce the implementation of that agreement[.]”⁹²⁸

Member States can have confidence. He requests the General Assembly to give due consideration to these proposals and to approve the resources necessary for full implementation.”

⁹²⁴ Ibid., para. 12.

⁹²⁵ G A resolution 61/261, para. 11.

⁹²⁶ Ibid., paras. 12,13.

⁹²⁷ Ibid., paras. 15,16.

⁹²⁸ Ibid., para. 17

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346. In December 2007, the General Assembly adopted resolution 62/228, in which the Assembly reiterated its decision to create a single, integrated, decentralized Office of the Ombudsman, and decided to establish the Office as of 1 January 2008.⁹²⁹ Further, the General Assembly urged the Ombudsman, the Office of the Joint Ombudsperson (United Nations Development Programme/United Nations Population Fund/United Nations Children's Fund/United Nations Office for Project Services), and the Office of the Mediator of the Office of United Nations High Commissioner for Refugees to strengthen the then ongoing efforts to coordinate and harmonize standards, operating guidelines, reporting categories and databases.⁹³⁰

347. Further, the General Assembly decided to establish branch offices for the Office of the Ombudsman in Bangkok, Geneva, Nairobi, Santiago and Vienna, each with one Regional Ombudsman (P-5) and one Administrative Assistant (General Service (Other level/Local level)).⁹³¹ The General Assembly also requested the Secretary-General to ensure that staff at all duty stations had access to the Ombudsman.⁹³² The General Assembly also decided to establish the Mediation Division as from 1 January 2008.

348. In 2008, during the sixty-third session of the General Assembly, the Secretary-General issued report A/63/283. In this report, the Secretary-General informed the General Assembly of the then intensified internal efforts of the relevant Ombudsman offices to coordinate and cooperate with a view towards enhancing the complementarity of their roles and services,

⁹²⁹ G A resolution 62/228, section II(A), para. 25.

⁹³⁰ Ibid., para. 25.

⁹³¹ Ibid., para. 26.

⁹³² Ibid., para. 28.

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pursuant the request of the Assembly in resolution 62/228 as discussed above.⁹³³ Additionally, pursuant to that same resolution, regional offices were, at that time, in the process of being established in Bangkok, Geneva, Nairobi, Santiago, and Vienna.⁹³⁴

349. Further, in order to comply with the request of the General Assembly from resolution 61/261 to provide revised terms of reference for the Ombudsman, taking into account the changes mandated by the Assembly in the context of the new system of administration of justice, the Office of the Ombudsman was, during the Assembly's sixty-third session, in the process of revising its terms of reference to incorporate the reform mandated by the Assembly. These reforms were to include the “establishment of a single, integrated and decentralized Office of the Ombudsman that serves the Secretariat, funds and programmes; the creation of a Mediation Division to provide formal mediation services; and the establishment of regional branches overseas.”⁹³⁵

350. In regards to the Mediation Division, the Secretary-General reaffirmed that the creation of a Mediation Division was a critical element of the efforts of the General Assembly to strengthen the informal system.⁹³⁶ The Secretary-General stated that the Mediation Division would provide formal mediation services for the Secretariat, funds, and programs, on cases referred to it by the Office of the Ombudsman, or by order of the United Nations Dispute Tribunal. Additionally, the Mediation Division would complement the informal mediation

⁹³³ A/63/283, para. 54.

⁹³⁴ Ibid., para. 55.

⁹³⁵ Ibid., para. 66.

⁹³⁶ Ibid., section D, para. 69.

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services that were then provided by the Office of the Ombudsman.⁹³⁷ Further, the Secretary-General elaborated that, “[a]s approved by the General Assembly in the context of the programme budget for the biennium 2008-2009, the Mediation Division will consist of a Director of the Mediation Division (D-1), two Senior Mediators (P-5) and one Administrative Assistant.”⁹³⁸

351. Additionally, the Secretary-General stated that the Division would establish and maintain a list of on-call international professional mediators to provide specialized mediation services as needed, and that the Division would be located in New York and function under the authority of the United Nations Ombudsman.⁹³⁹ The Secretary-General further stated that efforts were then under way to initiate the requisite administrative procedures in order to classify and advertise the planned positions, and that guidelines and operating procedures were also being developed with input from an outside expert, with all of these guidelines to be later promulgated in an administrative instruction.⁹⁴⁰

352. At the end of 2008, the General Assembly adopted resolution 63/253 and welcomed the steps taken by the Office of the Ombudsman towards implementing the new informal system pursuant to resolution 62/228.⁹⁴¹ The Assembly further reaffirmed the importance of informal conflict resolution to the system of administration of justice,⁹⁴² and decided that all people who have access to the Office of the Ombudsman under the current

⁹³⁷ Ibid.

⁹³⁸ Ibid., para. 70.

⁹³⁹ Ibid.

⁹⁴⁰ Ibid., para. 72.

⁹⁴¹ G A resolution 63/253, section II, para. 17.

⁹⁴² Ibid., para. 18.

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system should also have access to the new informal system.⁹⁴³ The General Assembly also welcomed the intention of the Secretary-General to issue a joint report in 2009 for the entities covered by the integrated Office of the Ombudsman, taking into consideration the different legislative bodies that would receive the report.⁹⁴⁴

353. Regarding the Mediation Division, in this resolution⁹⁴⁵ the General Assembly requested that the Secretary-General consider and make proposals during the Assembly's sixty-fifth session for providing incentives for employees seeking dispute resolution to submit disputes to mediation under the auspices of the Office of the Ombudsman.⁹⁴⁶ The General Assembly further requested that the Secretary-General promulgate the aforementioned administrative instruction as soon as possible, and to take advantage of existing mechanisms for conflict resolution and mediation, "as deemed useful and appropriate, in order to facilitate a renewed dialogue between staff and management[.]"⁹⁴⁷

354. During the sixty-fourth session of the General Assembly, the Secretary-General issued the first joint report for the entities covered by the integrated Office of the Ombudsman, called the Office of the United Nations Ombudsman and Mediation Services (UNOMS).⁹⁴⁸ In this report, the Secretary-General noted that while mediation was voluntary, it would be essential to encourage managers to participate in good faith in mediation requested by staff members through appropriate communication or guidelines, while still recognizing that the parties would

⁹⁴³ Ibid., para. 19.

⁹⁴⁴ Ibid., para. 23.

⁹⁴⁵ Ibid., para 17.

⁹⁴⁶ Ibid., para. 20.

⁹⁴⁷ Ibid., paras. 21,22.

⁹⁴⁸ A/64/314, para. 3.

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still be free to either reach an agreement or not.⁹⁴⁹ The Secretary-General stated that this would help to enhance the Mediation Division's impact and effectiveness.⁹⁵⁰

355. Through resolution 64/233, the General Assembly welcomed the above report by the Secretary-General and requested that the Secretary-General issue such a report to the Assembly during its sixty-fifth session, and to continue to do so on a regular basis.⁹⁵¹ The Assembly also requested that the Secretary-General include the exact terms of reference of the UNOMS concerning access by non-staff personnel.⁹⁵²

356. The Secretary-General next reported on the activities of the UNOMS in 2010, through report A/65/303.⁹⁵³ In this second report on the activities of the UNOMS, the Secretary-General highlighted a number of important milestones for the Office.⁹⁵⁴ This included the appointments of all regional ombudsmen and case offices, the full staffing and operation of Mediation Services, the development of mediation guidelines, and the successful resolution of several complex cases.⁹⁵⁵ In the first five months of 2010, the Secretary-General reported that there was a 33 percent increase in the use of the overall services of the UNOMS and a 69 percent increase in the rate of Secretariat visitors alone.⁹⁵⁶ Additionally, in the second half of 2009, 79 percent of the cases received did not proceed to the United Nations Dispute Tribunal.⁹⁵⁷

⁹⁴⁹ Ibid., section C, para. 115.

⁹⁵⁰ Ibid.

⁹⁵¹ G A resolution 64/233, para. 13.

⁹⁵² Ibid., para. 8(a).

⁹⁵³ A/65/303.

⁹⁵⁴ Ibid.

⁹⁵⁵ Ibid.

⁹⁵⁶ Ibid.

⁹⁵⁷ Ibid.

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357. Additionally, the Secretary-General reported that the UNOMS overall case volume continued to be high at that time, due in part to the growing recognition of the importance of informal resolution (including 1,287 cases comprising 1,869 issues being opened in 2009).⁹⁵⁸ The Secretary-General also reported on some challenges faced by the UNOMS.⁹⁵⁹ The Secretary-General identified that the voluntary nature of mediation, while important, could pose challenges in gaining the agreement of both parties to participate in the process.⁹⁶⁰ Further, identifying and ensuring the presence (or at least immediate access) of the individual(s) who had the authority to settle all aspects of the matter was noted as another challenge.⁹⁶¹ The Secretary-General also identified that reaching a resolution or carrying through on a resolution could be hindered or derailed altogether due to lack of funds.⁹⁶² Finally, the Secretary-General concluded that the “success of informal resolution also depends on a shift in organizational culture that recognizes the importance of conflict prevention and conflict management, to better deal with issues before they become public or adversarial. The United Nations will need to continue to evidence strong support in this area if it is to make progress.”⁹⁶³

358. In its final resolution during the period under review (65/251), the General Assembly took note of the above report of the Secretary-General, as well as the statistics included above.⁹⁶⁴ The General Assembly also reaffirmed the importance of informal resolution

⁹⁵⁸ Ibid.
⁹⁵⁹ Ibid.
⁹⁶⁰ Ibid.
⁹⁶¹ Ibid.
⁹⁶² Ibid.
⁹⁶³ Ibid.
⁹⁶⁴ G A resolution 65/251.

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as a crucial element of the system of administration of justice, and once again emphasized that all possible use should be made of the informal system in order to avoid unnecessary litigation.⁹⁶⁵ Further, the General Assembly noted that the delayed response of departmental heads to the grievances of and issues raised by staff has an impact in respect of increasing the number of cases before the formal justice system.⁹⁶⁶

359. Additionally, the General Assembly requested the Secretary-General to ensure that management responds to requests from the UNOMS, taking into account the fact that staff members often see the formal system as offering them expeditious resolutions (because in the formal system managers are mandated to respect the timelines, while this is not the case for informal resolution).⁹⁶⁷ As such, the General Assembly requested the Secretary-General to report thereon in its report on the activities of the UNOMS for the sixty-sixth session of the General Assembly.⁹⁶⁸

360. In this same resolution, the General Assembly decided to fix the term of the United Nations Ombudsman at five years, with the possibility of renewal for one additional term.⁹⁶⁹ The Assembly further requested the Secretary-General to expeditiously conclude inter-agency negotiations on the revised terms of reference for the United Nations Ombudsman and to report thereon to the Assembly at its sixty-sixth session, and to ensure that the terms of reference

⁹⁶⁵ Ibid., section II, para. 12.

⁹⁶⁶ Ibid., para. 14.

⁹⁶⁷ A/65/303, para. 129.

⁹⁶⁸ G A resolution 65/251, section II, para. 15.

⁹⁶⁹ Ibid., para. 16.

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and guidelines for the Mediation Division were promulgated as soon as possible.⁹⁷⁰ The General Assembly again emphasized the importance of ensuring equal and continued access by all staff to the informal system of administration of justice (including to the rapid response teams), and requested the Secretary-General to provide an informal briefing to the General Assembly along with his report on the activities of the UNOMS during the sixty-sixth session of the Assembly.⁹⁷¹ There was no further action taken on this matter during the period under review.

(b) The Office of Administration of Justice

361. In July 2006, the Redesign Panel issued a report during the sixty-first session of the General Assembly.⁹⁷² One of the recommendations contained within this report was for the early establishment of an Office of Administrative of Justice in the United Nations, to be headed by an executive director with the rank of Assistant Secretary-General.⁹⁷³ The Secretary-General issued a Note on the Report of the Redesign Panel and supported the recommendation for the early establishment of the aforementioned office.⁹⁷⁴

362. During its sixty-first session, the General Assembly agreed to establish the Office of the Administration of Justice, to be headed by a senior management-level official, which would have overall responsibility for coordinating the United Nations system of administration

⁹⁷⁰ Ibid., paras. 16,17.

⁹⁷¹ Ibid., paras. 24,27,29.

⁹⁷² A/61/205.

⁹⁷³ Ibid., section XIII, para. 153.

⁹⁷⁴ A/61/758, para. 8.

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of justice.⁹⁷⁵ In the following year, 2007, the General Assembly decided to establish the Office of Administration of Justice, which would comprise of the Office of the Executive Director and the Office of Staff Legal Assistance, as well as the Registries for the United Nations Dispute Tribunal and the United Nations Appeals Tribunal.⁹⁷⁶ Additionally, the Assembly decided that the Office of the Executive Director was to consist of “one Executive Director (D-2), one Special Assistant (P-4) and one Administrative Assistant (General Service (Other level)),”⁹⁷⁷ and further requested that the Secretary-General ensure that these positions were filled as a matter of priority (no later than 1 July 2008).⁹⁷⁸

363. In December 2008, the General Assembly expressed its regret concerning the delays in the filling of the above positions, and requested that the Secretary-General fill the posts as a matter of priority, particularly the post of the Executive Director of the Office of Administration of Justice.⁹⁷⁹ In 2010, the Secretary-General issued a Secretary-General’s bulletin which promulgated the organization and terms of reference of the Office of Administration of Justice.⁹⁸⁰ In this bulletin,⁹⁸¹ the Secretary-General identified the Office of Administration of Justice as an “independent office responsible for the overall coordination of the formal system of administration of justice, and for contributing to its functioning in a fair, transparent and efficient

⁹⁷⁵ G A resolution 61/261, para. 28.

⁹⁷⁶ Ibid., section B, para. 10.

⁹⁷⁷ G A resolution 62/228, section B, para. 11.

⁹⁷⁸ Ibid.

⁹⁷⁹ GA resolution 63/253, para. 6.

⁹⁸⁰ A/65/373, para. 74.

⁹⁸¹ ST/SGB/2010/3.

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manner.”⁹⁸² As such, the Secretary-General stated that the Office would provide substantive, technical and administrative support to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal through their Registries, as well as assist staff members and their representatives in pursuing claims and appeals through the Office of Staff Legal Assistance, and provide assistance to the Internal Justice Council as appropriate.⁹⁸³ Further, the Secretary-General stated that the Office was to be divided into organizational units and headed by an Executive Director.⁹⁸⁴

364. Subsequently, the General Assembly, in resolution 65/251, noted with appreciation the important role of the Office of Administration of Justice in maintaining the independence of the formal system of justice and the progress made by its Executive Director during its first year, and welcomed the launch of the Office of Administration of Justice’s website.⁹⁸⁵ The General Assembly further requested that the Secretary-General continue improving the utility, effectiveness, and user-friendly tools of the website to enable an increased number of staff members to utilize it, and to report to the General Assembly thereon during the sixty-sixth Session of the Assembly. There was no further action taken on this matter during the period under review.⁹⁸⁶

(c) The Office of Staff Legal Assistance

⁹⁸² Ibid., section II, para. 2.1.

⁹⁸³ Ibid., para. 2.1.

⁹⁸⁴ Ibid., para. 2.2, 2.3.

⁹⁸⁵ GA Res 65/251, paras. 32,33.

⁹⁸⁶ Ibid., para. 33.

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365. In 2006, the Redesign Panel proposed that a professional Office of Counsel should be established for the United Nations in its report A/61/205.⁹⁸⁷ This Office would be staffed by persons with legal qualifications, who would serve on a full-time basis and be properly resourced (and considering that the Office would cover not just the Secretariat, but also the funds and programs, it was proposed that the latter contribute to the resources of the Office).⁹⁸⁸ The Redesign Panel explained that the establishment of this Office would neither preclude voluntary service in the Panel of Counsel by retired staff members of organizations in the United Nations system who were qualified lawyers, as a back-up to full-time counsel, nor the possibility of recourse to outside counsel either on a pro bono basis or paid for by the staff member personally.⁹⁸⁹

366. Further, the Redesign Panel stated that the Office of Counsel should have coordinators in Geneva, Vienna, Nairobi, the regional economic commissions and peacekeeping missions with significant numbers of civilian staff, and that these coordinators should serve full-time in this function, in addition to its base staff at Headquarters in New York.⁹⁹⁰ The Redesign Panel further recommended that the General Assembly establish a post of “the Director of Office of Counsel in New York at the D-1 level, plus one P-5 post of Senior Staff Counsel, two P-2 posts of Associate Staff Counsel and three General Service posts. There should also be posts of one Coordinator at the P-3 level and one General Service staff member at each of the following duty stations: Geneva, Vienna, Nairobi, Addis Ababa/Johannesburg, Santiago/Panama City and

⁹⁸⁷ A/61/205, para. 107.

⁹⁸⁸ Ibid.

⁹⁸⁹ Ibid., para. 108.

⁹⁹⁰ Ibid., para. 109.

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Amman/Beirut.”⁹⁹¹ Additionally, in order to avoid conflicts of interest and ensure independence, the Redesign Panel proposed that the Office of Counsel should be relocated from the Department of Management to the proposed Office for the Administration of Justice.⁹⁹²

367. Subsequently, the Secretary-General issued a note on the Redesign Panel’s report (A/61/758). In his note, the Secretary-General stated that he agreed with the recommendation to establish a professionalized office located in the Office of Administration of Justice.⁹⁹³ The Secretary-General also endorsed recommendations of the SMCC to establish offices in a number of locations not suggested by the Redesign Panel, in order to reflect the geographic distribution of the staff of the Secretariat and the funds and programs, as well as to enhance access for staff based in francophone countries in West Africa.⁹⁹⁴

368. The General Assembly, in resolution 61/261, supported the strengthening of a professional office of staff legal assistance, agreed that legal assistance for staff should continue to be provided at that time, and reiterated the “invitation to staff representatives to further explore the possibility of establishing a staff-funded scheme in the Organization that would provide legal advice and support to the staff[.]”⁹⁹⁵

369. In 2007, the General Assembly adopted resolution 62/228, which stressed that professional legal assistance was critical for the effective and appropriate utilization of the

⁹⁹¹ Ibid., para. 109.

⁹⁹² Ibid., para. 111.

⁹⁹³ A/61/758, para 9.

⁹⁹⁴ A/61/758, para. 9 stated that the “Secretary-General supports the recommendation of the Staff-Management Coordination Committee to establish offices to provide staff legal assistance in Addis Ababa, Bangkok, Beirut, Dakar, Geneva, Nairobi, New York, Santiago and Vienna and in the peacekeeping missions in the Democratic Republic of the Congo, Liberia and the Sudan.”

⁹⁹⁵ G A resolution 61/261, paras. 23,24.

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available mechanisms within the system of administration of justice, and reiterated its support for strengthening a professional office of staff legal assistance as set forth in resolution 61/261 above.⁹⁹⁶ Additionally, the General Assembly decided that the Office of Staff Legal Assistance was to consist of one Chief of Unit (P-5), one Legal Officer (P-3), one Legal Officer (P-2) and three Legal Assistants (General Service (Other level)) in New York, and one Legal Officer (P-3) each in Addis Ababa, Beirut, Geneva and Nairobi.⁹⁹⁷

370. The General Assembly also requested that the Secretary-General establish a code of conduct regulating the activity of internal and external individuals providing legal assistance to staff in order to ensure independence and impartiality, as well as develop incentives for staff and management (including through training opportunities) to enable and encourage staff to continue to participate in the work of the Office of Staff Legal Assistance.⁹⁹⁸ Further, the Assembly requested that the Secretary-General report on the progress made to establish a staff-funded scheme in the Organization that would provide legal advice and support to staff.⁹⁹⁹ Finally, the Assembly decided to revert to the issue of the mandate of the Office of Staff Legal Assistant at its sixty-third session, and recognized that the Office of Staff Legal Assistance and the Ombudsman had two distinct functions.¹⁰⁰⁰

⁹⁹⁶ G A resolution 62/228, paras. 12,13,17.

⁹⁹⁷ Ibid., para. 14.

⁹⁹⁸ Ibid., paras. 16,18.

⁹⁹⁹ Ibid., para. 17.

¹⁰⁰⁰ Ibid., paras. 19,21.

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371. In August of the following year, the Secretary-General issued report A/63/314, which addressed the aforementioned requests of the General Assembly.¹⁰⁰¹ The Secretary-General stated that there were several challenges in establishing staff-funded scheme under the proper conditions, one of which was that the idea of establishing such a scheme lacked support among the staff.¹⁰⁰²

372. However, the Secretary-General stated that Staff Unions had at that time expressed their will to enhance the ongoing support for staff volunteering professional legal counseling, and to cooperate with the Secretary-General to develop incentives to enable and encourage staff to continue to participate in the work of the Office of Staff Legal Assistance, as per the General Assembly's request in resolution 62/228.¹⁰⁰³ In the subsequent General Assembly resolution (63/253), the General Assembly repeated the aforementioned request, recalled the above statement of the Secretary-General regarding the will of the Staff Union, and requested that the Secretary-General work with the staff associations to achieve such a goal.¹⁰⁰⁴

¹⁰⁰¹ A/63/314, section III, para. 50.

¹⁰⁰² A/63/314, section III, paras. 51,52 stated that, "There are several challenges in establishing such a fund under conditions that would be financially viable, managerially solid and fair to all staff, regardless of duty station. [...] Perhaps the most significant reason why there has been no progress in establishing a staff-funded scheme is that the idea lacks support among the staff. At the recently concluded twenty-ninth session of the Staff-Management Coordination Committee, staff representatives expressed their concerns and doubts regarding the appropriateness and viability of such an approach. Staff stated that by joining the United Nations system, they were losing their rights to pursue labour-related disputes according to their national legislation. In many national jurisdictions, those rights also include access to legal representation. Therefore, staff reiterated their opinion that within the new system of internal justice, legal representation should be provided for and funded by the Organization."

¹⁰⁰³ Ibid., para. 55.

¹⁰⁰⁴ G A resolution 63/253, paras. 11,16.

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373. In the same resolution, the General Assembly noted that some of the then current and former United Nations staff had been reluctant to represent their fellow staff members in the dispute resolution process because of the burden that it would place on them.¹⁰⁰⁵ Further, the General Assembly decided that the role of professional legal staff in the Office of Staff Legal Assistance should be “to assist staff members and their volunteer representatives in processing claims through the formal system of administration of justice[.]”¹⁰⁰⁶ Finally, the General Assembly decided to revert to the mandate and functioning of the Office at its sixty-fifth session, and reiterated its request for a report from the Secretary-General during that same session, as detailed in paragraph 24 of resolution 61/261.¹⁰⁰⁷

374. Pursuant to those resolutions, the Secretary-General issued report A/65/373 during the sixty-fifth session of the General Assembly. In this report, the Secretary-General stated that the Office of Staff Legal Assistance had faced many challenges in its first year, including having to select staff for its Headquarters and four satellite offices in Addis Ababa, Beirut, Geneva, and Nairobi.¹⁰⁰⁸ In spite of the challenges it faced, the Secretary-General detailed a number of important accomplishments, including:

“(a) responding to the majority of the claims brought to the Office, including the provision of summary advice (206 instances), to clients in more than 80 countries; (b) closure or resolution of 54 per cent of the 938 cases filed with the Office of Staff Legal Assistance during the year; (c) a high success rate before the Dispute Tribunal; (d) undertaking outreach to staff in the field; and (e) the development of relationships with internal and external partners, including United Nations staff

¹⁰⁰⁵ Ibid., para. 10.

¹⁰⁰⁶ Ibid., para. 12.

¹⁰⁰⁷ Ibid., paras. 13, 14.

¹⁰⁰⁸ A/65/373, section D(1), para. 50.

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unions and associations, staff-at-large, the Office of the United Nations Ombudsman and Mediation Services, the legal offices of the Secretariat and United Nations agencies, funds and programmes, law offices providing pro bono legal counsel, schools and universities.”¹⁰⁰⁹

375. Further, the Secretary-General elaborated on a number of issues related to the first year of functioning of the Office of Staff Legal Assistance. Particularly, the Secretary-General stated that because each of the satellite offices were staffed by a single legal officer working without support staff, in those offices without an Office of Administration of Justice presence (i.e. Addis Ababa and Beirut), the legal officer had to manage the establishment, administration and caseload of the office without on-site assistance.¹⁰¹⁰ Additionally, the Secretary-General stated that the Office suffered from a lack of more experienced legal officers given the relatively low level (P-3) assigned to the majority of legal officer posts, and that given the volume of cases then being handled by the Office of Staff Legal Assistance the staffing of the Office was insufficient to handle the volume of cases (even after a significant triage and prioritization process had taken place).¹⁰¹¹

376. Finally, the Secretary-General stated that the Office of Staff Legal Assistance had attempted to gain additional funding through the establishment for the Trust Fund for Staff Legal Assistance, which was created to enhance the ability of the Office to provide legal advice and/or representation to United Nations staff members.¹⁰¹²

¹⁰⁰⁹ Ibid.

¹⁰¹⁰ Ibid., section D(2), para. 58.

¹⁰¹¹ Ibid., para. 62.

¹⁰¹² Ibid., para. 60.

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377. In 2010, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) considered the above reports of the Secretary-General and subsequently issued report A/65/557.¹⁰¹³ In its report, the ACABQ noted that the decisions of the Assembly had consistently raised the issue of a staff-funded scheme for the provision of legal assistance and support to staff.¹⁰¹⁴ The ACABQ further recognized the Secretary-General, in his report, indicated that efforts to obtain additional funding from “staff unions, former clients, external parties or through contributions to the Trust Fund for Staff Legal Assistance, which was established in January 2010, have resulted in very limited success (A/65/373 and Corr.1, para. 60).”¹⁰¹⁵

378. In light of this, the ACABQ recalled the Assembly’s request that the Secretary-General report on proposals for a “staff-funded scheme in the Organization that would provide legal assistance and support to staff.”¹⁰¹⁶ The ACABQ then expressed its regret that the aforementioned report of the Secretary-General (A/65/373 and Corr.1) did not contain such proposals.¹⁰¹⁷

379. Near the end of the period under review, the General Assembly adopted resolution 65/251, in which the General Assembly noted the important role played by the Office of Staff Legal Assistance, further noted that the Office was at that time representing staff members in cases before the United Nations Dispute Tribunal in New York, Geneva, and Nairobi, reiterated its request to the Secretary-General to work with staff associations to develop incentives to

¹⁰¹³ A/65/557, section I, para. 1.

¹⁰¹⁴ Ibid.

¹⁰¹⁵ Ibid., para. 31.

¹⁰¹⁶ Ibid.

¹⁰¹⁷ Ibid.

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encourage staff to continue to participate in the work of the Office of Staff Legal Assistance, and decided that the role of the professional legal staff in the Office of Staff Legal Assistance should continue to be that of assisting staff members and their representatives in the processing of claims through the formal administration of justice system.¹⁰¹⁸ Additionally, the General Assembly welcomed the establishment of the Trust Fund for United Nations Staff Legal Assistance, and commended the staff and associations that made contributions to the fund, and encouraged others to do the same.¹⁰¹⁹

380. Also in this resolution, the General Assembly joined the ACABQ in recalling paragraph 14 of resolution 63/253 and expressing its regret that the Secretary-General had not included proposals for a staff-funded scheme in the Organization that would provide legal assistance and support to staff members, and requested that the Secretary-General submit such proposals no later than the sixty-sixth session of the General Assembly. The General Assembly requested that this report include proposals that were based on mandatory contributions from staff, as well as proposals based on mixed funding and taking into account the views of relevant stakeholders.¹⁰²⁰ Finally, the General Assembly decided to revert to the question of the mandate and functioning of the Office of Staff Legal Assistance at its sixty-sixth session.¹⁰²¹ No further action was taken during the period under review.

(d) The Management Evaluation Unit

¹⁰¹⁸ G A resolution 65/251, paras. 36-38.

¹⁰¹⁹ Ibid., para. 39.

¹⁰²⁰ Ibid., para. 40.

¹⁰²¹ Ibid., para. 56.

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381. In 2006, the Redesign Panel issued its report A/61/205.¹⁰²² In this report, the Redesign Panel recommended that the process of administrative review before action in the formal justice system should be abolished.¹⁰²³ In the Secretary-General's note on the report, he stated his support for the Redesign Panel's proposal to abolish the administrative review process.¹⁰²⁴

382. However, in this note, the Secretary-General endorsed the recommendation by the SMCC to replace the review with a properly resourced and strengthened management evaluation function as a first step in the formal justice system.¹⁰²⁵ The Secretary-General stated that this would be an essential management tool for executive heads to hold managers accountable for their decisions, including in cases where an improper decision had been taken.¹⁰²⁶ Additionally, the Secretary-General elaborated that it would give management an early opportunity to review a contested decision, in order to determine whether mistakes had been made or whether irregularities had occurred and gave management the ability to rectify those mistakes or irregularities before a case proceeds to litigation.¹⁰²⁷

383. The Secretary-General continued that in order to ensure that the new function was more effective than the administrative review process that it would replace, the Secretary-General endorsed several measures to strengthen the management evaluation function, that were

¹⁰²² A/61/205.

¹⁰²³ A/61/205, section XIII, para. 158.

¹⁰²⁴ A/61/758, para. 29.

¹⁰²⁵ *Ibid.*

¹⁰²⁶ *Ibid.*

¹⁰²⁷ *Ibid.*

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agreed to by the SMCC.¹⁰²⁸ These suggestions included stipulating a 45-day limit for the provision of a written reasoned response, creating a well-resourced dedicated unit responsible for this function, reporting directly to the Under-Secretary-General for Management, allowing the Under-Secretary-General for Management to change or modify incorrect or non-compliant decisions or to identify alternative solutions for the resolution of a dispute, and identifying instances in which suspensions of action could be granted, pending completion of the evaluation.¹⁰²⁹

384. Additionally, the Secretary-General agreed with a number of the recommendations by the SMCC in order to ensure managerial accountability.¹⁰³⁰ Among these

¹⁰²⁸ A/61/758, para. 30 stated that the Secretary-General endorsed the following measures: “(a) [s]taff members shall apply directly to the Secretary-General or the executive head of a separately administered fund or programme for an evaluation of the contested administrative decision; (b) [a]ll staff members who file a request for evaluation will receive a reasoned response in 45 days. In order to avoid the perception of conflict of interest, management evaluations will be carried out by a separate unit in the Department of Management. Sufficient resources will be requested in order that the reviews can be conducted during that time period; (c) [i]n cases where the contested decision is particularly time sensitive — separation and non-renewal cases — staff members may request that the Secretary General or executive head suspend action on implementation of the decision until the management evaluation has been completed and the staff member informed of the decision; (d) [i]n cases of decisions to terminate appointments of staff members prior to the expiration of their contracts, such suspensions will be granted automatically upon request until the management evaluation has been completed; (e) [s]taff members may file a request for suspension of action with the Dispute Tribunal without making such a request of the executive head. They may also file a request for suspension of action with the Dispute Tribunal in cases where the executive head has denied the staff member’s request for suspension. Dispute Tribunal decisions on suspension of action are not subject to appeal; (f) [i]n cases where the outcome of the management evaluation indicates that the decision was not in line with the Staff Regulations and Rules, action will be taken by the Department of Management to ensure that the decision is changed or that an appropriate remedy is taken; (g) [i]f the response is not provided within 45 days or is not satisfactory to the staff member, the staff member may proceed to the Dispute Tribunal; (h) [t]he response will inform the staff member of his or her legal options, including the possibility to notify and to seek advice from staff representation bodies and the Office of Staff Legal Assistance.”

¹⁰²⁹ A/62/294, para. 78.

¹⁰³⁰ A/61/758, para. 31(a).

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recommendations, was that managers' compliance with their obligation to respond to requests for comments in a timely fashion would be reflected in their PAS, as well as in departmental human resources action plans.¹⁰³¹ Further, the SMCC recommended that where the outcome of the management evaluation indicated that a decision was taken improperly, in addition to action being taken to rectify the situation, a record of the outcome would be made in the departmental human resources action plans and the head of department's compact with the Secretary-General or executive head.¹⁰³² Further, the SMCC recommended that similar proceedings would apply in the funds and programs, as appropriate (and the Secretary-General agreed).¹⁰³³ The Secretary-General also agreed with the SMCC's recommendation that, where the Under-Secretary-General for Management determined a manager had improperly exercised his or her delegated authority, such authority may be withdrawn, and that a similar procedure would apply in the funds and programs as appropriate.¹⁰³⁴ Finally, the Secretary-General also agreed with the recommendation that, where the Under-Secretary-General for Management determined that misconduct may have occurred, the matter would be referred for investigation, as appropriate (however, the case could still proceed to the Dispute Tribunal).¹⁰³⁵ The General Assembly endorsed the above measures to ensure managerial accountability in its resolution 61/261.¹⁰³⁶

385. During its sixty-second session, the General Assembly adopted resolution 62/228, which addressed the management evaluation function. In this resolution, the General Assembly

¹⁰³¹ Ibid.
¹⁰³² Ibid.
¹⁰³³ Ibid.
¹⁰³⁴ Ibid., para. 31(b).
¹⁰³⁵ Ibid., para. 31(c).
¹⁰³⁶ G A resolution 61/261, para. 27.

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emphasized the need to have a process in place for management evaluation that was efficient, effective, and impartial, and reaffirmed the importance of the general principle of exhausting administrative remedies before formal proceedings were instituted.¹⁰³⁷ As such, the General Assembly decided to establish an independent Management Evaluation Unit in the Office of the Under-Secretary-General for Management.¹⁰³⁸ This unit would include one Chief of Unit (P-5), two Legal Officers (P-4) and three Administrative Assistants (General Service (Other level)) and general temporary assistance equivalent to one P-4 Legal Officer position[.]”¹⁰³⁹

386. Additionally, the General Assembly took note of the aforementioned recommendations of the ACABQ, emphasized the importance of prompt decisions and responses to formal requests for management evaluation, and stressed the importance of establishing adequate accountability measures for managers (in order to ensure their timely response to management evaluation requests).¹⁰⁴⁰ Additionally, the General Assembly decided that a management evaluation should be completed as soon as possible and within a limit of thirty calendar days for Headquarters and forty-five calendar days for offices away from Headquarters from the date of the submission of a request for evaluation.¹⁰⁴¹

387. In resolution 63/253, the General Assembly decided that “interns, type II gratis personnel and volunteers (other than United Nations Volunteers) [would] have the possibility of requesting an appropriate management evaluation but [would] not have access to the United

¹⁰³⁷ G A resolution 62/228, section E, paras. 50,51.

¹⁰³⁸ Ibid., para. 52.

¹⁰³⁹ Ibid.

¹⁰⁴⁰ Ibid., paras. 53,54,55.

¹⁰⁴¹ G A resolution 62/228, section E, para. 54.

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Nations Dispute Tribunal or to the United Nations Appeals Tribunal[.]”¹⁰⁴² In the following year, the General Assembly also requested that the Secretary-General provide a description of the procedure for management evaluation in his aforementioned report to be submitted at the Assembly’s sixty-fifth session.¹⁰⁴³ The General Assembly requested that the description include the types of work-related administrative decisions for which management evaluation was required, as well as the procedure that would normally be followed in other cases where non-staff personnel submitted a complaint concerning a violation of contract that did not qualify for management evaluation.¹⁰⁴⁴

388. Regarding the General Assembly’s request to further clarify the role of the Department of Management of the Secretariat in the evaluation process, the Secretary-General stated that in the context of the Unit’s then current mandate, it operated as a separate unit within the Office of the Under-Secretary-General for Management (USG/DM).¹⁰⁴⁵ The Unit reviewed requests for management evaluation and presented its findings and recommendations to the USG/DM in the form of a draft management evaluation letter addressed to the staff member requesting the management evaluation. If necessary, the USG/DM reviewed the letter and consulted with the Unit.¹⁰⁴⁶ The Secretary-General further stated that the letter, signed by the

¹⁰⁴² Ibid., para. 7.

¹⁰⁴³ G A resolution 64/233, para. 8(c).

¹⁰⁴⁴ Ibid.

¹⁰⁴⁵ A/65/373, section II, paras. 146, 148.

¹⁰⁴⁶ Ibid., para. 148.

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USG/DM, would represent that the findings and recommendations of the Unit were endorsed by the Secretary-General.¹⁰⁴⁷

389. The Secretary-General elaborated that the Unit operated independently from decision-makers whose decisions were subject to management evaluation, as well as from the Administration's legal advisers (including the Office of Legal Affairs and the Administrative Law Section).¹⁰⁴⁸ The Secretary-General also stated that the USG/DM had the delegated authority to indicate the Secretary-General's endorsement of the Unit's recommendations and, in practice, the recommendations of the Unit were routinely endorsed and implemented.¹⁰⁴⁹ Further, the Secretary-General informed the General Assembly that the overriding interest of the USG/DM was to ensure that cases were fairly and impartially reviewed so that the cases involving managerial error did not needlessly proceed to the Dispute Tribunal, and that then recent statistics showed that a significant majority of cases remained unchanged after review by the Tribunal.¹⁰⁵⁰

390. As a final point on this matter, the Secretary-General stated that the Unit and the USG/DM provided mutual support in the area of managerial accountability, and that the USG/DM supported the Unit by ensuring that managers responded to requests for comments on management evaluations adequately and in a timely manner.¹⁰⁵¹ In addition, the Unit assisted the USG/DM to ensure proper managerial accountability through the maintenance of records on the

¹⁰⁴⁷ Ibid.
¹⁰⁴⁸ Ibid.
¹⁰⁴⁹ Ibid., para. 149.
¹⁰⁵⁰ Ibid., para. 149.
¹⁰⁵¹ Ibid., para. 150.

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timeliness and adequacy of managers' responses to requests for management evaluation, and by regularly raising issues on management practice that arose from an analysis of its caseload.¹⁰⁵² In this regard, the Secretary-General stated that, "compliance with requests for comments on management evaluations has recently been included in senior managers' compacts between the Secretary-General and heads of departments and offices."¹⁰⁵³

391. Concerning the General Assembly's request for a description of the procedure for management evaluation,¹⁰⁵⁴ the Secretary-General outlined the process as follows:

"[a] staff member wishing to formally contest an administrative decision alleging non-compliance with his or her contract of employment or terms of appointment is required to submit to the Secretary-General in writing a request for a management evaluation of the administrative decision within 60 days of the date on which he or she received notification of the decision. The response of the Secretary-General, reflecting the outcome of the management evaluation, is communicated in writing to the staff member within 30 days of receipt of the request for management evaluation for staff members stationed at Headquarters, and within 45 days of receipt of the request for management evaluation for staff members stationed away from Headquarters."¹⁰⁵⁵

392. Additionally, the Secretary-General stated that requests for a management evaluation may be received from staff members, former staff members, interns, type II gratis

¹⁰⁵² Ibid.

¹⁰⁵³ Ibid.

¹⁰⁵⁴ In G A resolution 64/223, the Assembly requested that the Secretary-General include in his report "[a] description of the new procedure for management evaluation, including the types of work-related administrative decisions for which it is required, and of the procedure normally followed in other cases where non-staff personnel submit a complaint concerning a violation of contract that does not qualify for management evaluation[.]"

¹⁰⁵⁵ A/65/373, section 6, para. 188.

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personnel, and volunteers of the Secretariat,¹⁰⁵⁶ as well as persons submitting a claim in the name of an incapacitated or deceased staff member of the Secretariat.¹⁰⁵⁷ Further, the types of work-related administrative decisions for which management evaluation had been requested fell within several categories. These categories were separation from service, appointments and promotion, benefits and entitlements, discriminatory treatment, maladministration and lack of due process, reassignment, and ‘other’.¹⁰⁵⁸ The Secretary-General further stated that, at that time, the most numerous cases were in the separation from service category, followed by the appointments and promotions category and the benefits and entitlements category.¹⁰⁵⁹

393. In his next report on the administration of justice (A/65/373), the Secretary-General gave a synopsis of the activity of the Management Evaluation Unit. The Secretary-General informed the General Assembly that the Unit had received 428 management evaluation requests since its inception (a 95 percent increase over the number of cases received for administrative review under the former system in a similar time frame), concluded that this trend suggested that staff members were increasingly aware of the existence of the new system of justice, had confidence that their issues would be addressed fairly and in a timely manner, and stated that “[a]s staff become more aware of the system, and how to access it, that upward trend

¹⁰⁵⁶ Ibid., para. 189, stated that “requests for a management evaluation may be received from: (a) staff members, former staff members, interns, type II gratis personnel, and volunteers (not including United Nations Volunteers) of the Secretariat (including Headquarters, offices away from Headquarters, regional commissions, peacekeeping and special political missions); and (b) persons submitting a claim in the name of an incapacitated or deceased staff member of the Secretariat.”

¹⁰⁵⁷ Ibid., para. 189.

¹⁰⁵⁸ Ibid., para. 190.

¹⁰⁵⁹ Ibid.

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is likely to continue.”¹⁰⁶⁰ The Secretary-General also reiterated that thorough and timely responses from the Management Evaluation Unit were essential to the successful fulfillment of the Unit’s mandate.¹⁰⁶¹ No further action was taken on this matter during the period under review.

(e) The United Nations Dispute Tribunal and United Nations Appeals Tribunal

394. During the period under review, the Redesign Panel issued its report (A/61/205). In this report, the Redesign Panel recommended the establishment of a two-tiered system of formal justice, comprising of a first-instance decentralized tribunal (the United Nations Dispute Tribunal (UNDT or Dispute Tribunal)), and a United Nations Appeals Tribunal (Appeals Tribunal), which would exercise appellate jurisdiction.¹⁰⁶²

395. The Redesign Panel further recommended that the UNDT would be composed of professional judges with the power to make binding decisions, and with the jurisdiction described in the annex to the Redesign Panel’s report.¹⁰⁶³ Further, the Redesign Panel recommended that the UNDT replace the then existing advisory bodies (including the Joint Appeals Boards and the Joint Disciplinary Committees), but not the rebuttal panels and Classification Appeals and Review Committees.¹⁰⁶⁴

¹⁰⁶⁰ A/65/373, section II(a), para. 7.

¹⁰⁶¹ Ibid., para. 10.

¹⁰⁶² A/61/205, section XIII, paras. 154,155.

¹⁰⁶³ Ibid., para. 154.

¹⁰⁶⁴ Ibid.

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396. Subsequent to the release of the Redesign Panel's report, the Secretary-General provided a note on the report.¹⁰⁶⁵ In his note, the Secretary-General agreed with the recommendations of the Redesign Panel and shared the view that the performance appraisal system (PAS),¹⁰⁶⁶ rebuttal panels, and Classification Appeals and Review Committees would be maintained. Further, the SMCC indicated that specialized or technical advisory bodies such as the medical boards and the Advisory Board on Compensations Claims would also need to be maintained (and the Secretary-General agreed as well).¹⁰⁶⁷ The Secretary-General also agreed that the UNDT and the Appeals Tribunal should make binding decisions.¹⁰⁶⁸

397. Also in the report of the Redesign Panel, the Redesign Panel recommended that matters should normally be determined by a judge sitting alone.¹⁰⁶⁹ However, the Redesign Panel considered it advisable to retain some elements of peer review, with assessors sitting with the judge in disciplinary cases, and if the judge so decided, in exceptional cases involving serious allegations.¹⁰⁷⁰ The Secretary-General, in his note A/61/758, stated that in order to reflect the multicultural nature of the Organization, representation of more than one legal system would be required.¹⁰⁷¹ In order to achieve this, the Secretary-General stated that cases at the first level should be reviewed by a panel of three judges.¹⁰⁷² The Secretary-General therefore supported the recommendation of the SMCC that the UNDT be composed of nine full-time judges sitting in

¹⁰⁶⁵ A/61/758.
¹⁰⁶⁶ Ibid., para. 18.
¹⁰⁶⁷ Ibid.
¹⁰⁶⁸ Ibid., para. 21.
¹⁰⁶⁹ A/61/205, section XIII, para. 93.
¹⁰⁷⁰ Ibid.
¹⁰⁷¹ A/61/758, para. 19.
¹⁰⁷² Ibid.

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panels of three, and that “no two Dispute Tribunal judges should be of the same nationality and that gender and regional balance should be respected; the same considerations would also apply to the judges of the Appeals Tribunal.”¹⁰⁷³ With this increased number of judges per panel, the Secretary-General proposed to establish UNDT panels in Geneva, Nairobi and New York, without the half-time judges in Santiago and Bangkok proposed by the Redesign Panel.¹⁰⁷⁴

398. The Redesign Panel also recommended that an Internal Justice Council should be established to compile lists of candidates for appointment as judges in the Organization’s internal justice system, and to monitor that system.¹⁰⁷⁵ In his note, the Secretary-General stated that, he supported the Redesign Panel's recommendation to establish an Internal Justice Council to compile lists of candidates for appointment as judges in the Organization's internal justice system. Further, the Secretary-General stated that all judges of the UNDT and Appeals Tribunal would be appointed by the Secretary-General and the General Assembly respectively from the list of candidates prepared by the Internal Justice Council.¹⁰⁷⁶ The ACABQ also addressed this recommendation in its report A/61/815.

399. The ACABQ stated that its view was that the effectiveness of such a body would depend largely on the expertise of its members.¹⁰⁷⁷ However, at that time, it was not clear how the Internal Justice Council would be constituted, the precise role it would play, and the process that would be applied for the selection of its members. Further, the ACABQ stated its concern

¹⁰⁷³ Ibid.
¹⁰⁷⁴ Ibid., para. 20.
¹⁰⁷⁵ A/61/205, section XIII, para. 173.
¹⁰⁷⁶ A/61/758, para. 32.
¹⁰⁷⁷ A/61/815, para. 48.

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that very little emphasis had been placed on the legal and judicial expertise, experience, and qualifications of its members, which would be of paramount importance.¹⁰⁷⁸

400. The ACABQ further stated that if the General Assembly decided to establish the Internal Justice Council, then the Assembly should request the Secretary-General to elaborate, and submit for the consideration of the Assembly, the terms of reference for the Council and the criteria for selection of its members.¹⁰⁷⁹

401. In 2007, through resolution 61/261, the General Assembly requested that the Secretary-General report containing proposals on the nomination and selection process for the judges, taking into account the recommendations of the ACABQ as set out above.¹⁰⁸⁰

402. Further in 2007, the General Assembly issued resolution 62/228, which addressed, in part, the recommendation by the Redesign Panel concerning the establishment of an Internal Justice Council. In this resolution, the General Assembly decided to establish, by 1 March 2008, a five-member Internal Justice Council that consisted of a staff representative, a management representative, two distinguished external jurists (one nominated by staff and one by management) and chaired by a distinguished jurist chosen by consensus of the four other members.¹⁰⁸¹ The General Assembly also decided that the Internal Justice Council should be assisted by the Office of Administration of Justice (as appropriate)¹⁰⁸² and perform the following tasks:

¹⁰⁷⁸ Ibid.

¹⁰⁷⁹ Ibid., para. 49.

¹⁰⁸⁰ G A resolution 61/261, para. 32(b).

¹⁰⁸¹ G A resolution 62/228, section III(a), para. 36.

¹⁰⁸² Ibid., para. 38.

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“(a) [I]iaise with the Office of Human Resources Management on issues related to the search for suitable candidates for the positions of judges, including by conducting interviews as necessary;
(b) [p]rovide its views and recommendations to the General Assembly on two or three candidates for each vacancy in the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, with due regard to geographical distribution;
(c) [d]raft a code of conduct for the judges, for consideration by the General Assembly;
(d) [p]rovide its views on the implementation of the system of administration of justice to the General Assembly[.]”¹⁰⁸³

403. In its report A/61/205, the Redesign Panel also stated that the UNDT should have jurisdiction in four areas: (1) complaints alleging non-compliance with terms of appointment, conditions of employment or the duties of an international organization to its staff, regardless of the type of contract under which they are employed and whether or not there has been a formal decision;¹⁰⁸⁴ (2) disciplinary matters;¹⁰⁸⁵ (3) applications by the Organization or funds and programs to enforce the relevant staff and financial rules relating to accountability against staff members;¹⁰⁸⁶ and (4) actions by a staff association on behalf of its members to enforce the staff rules and regulations and related administrative instructions or on behalf of a particular class of its members affected by a particular administrative decision.¹⁰⁸⁷

¹⁰⁸³ GA Res 62/228, Sec. III(a), para. 37.

¹⁰⁸⁴ A/61/205, para. 77(a).

¹⁰⁸⁵ Ibid., para. 77(b).

¹⁰⁸⁶ Ibid., para. 77(c).

¹⁰⁸⁷ Ibid., para. 77(d).

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404. The Redesign Panel further recommended that the United Nations Administrative Tribunal be renamed the United Nations Appeals Tribunal, and its Statute amended to include a new appellate jurisdiction.¹⁰⁸⁸

405. Concerning the Redesign Panel's recommendation for allowing staff associations an independent right to bring a class or representative action on behalf of their members, the Secretary-General supported the SMCC's recommendation that a staff association under staff regulation 8.1(b) may bring an application against the United Nations or its separately administered funds and programs to: (a) enforce the rights of the staff association, as recognized under the Staff Regulations and Rules; (b) file an application in its own name on behalf of a group of named staff members who are entitled to file and who are affected by the same administrative decision arising out of the same facts; and (c) support an application by one or more individuals who are entitled to file an application against the same administrative decision by means of the submission of a friend-of-the-court brief or by intervention.¹⁰⁸⁹

406. Concerning the second tier of the formal justice system, the Secretary-General endorsed the SMCC's recommendation that the Appeals Tribunal exercise appellate jurisdiction where the UNDT: "(a) [h]as exceeded its jurisdiction or competence; (b) [h]as failed to exercise jurisdiction vested in it; (c) [h]as committed a fundamental error in procedure that has occasioned a failure of justice; (d) [h]as erred on a question of law; or (e) [h]as erred on a question of material fact."¹⁰⁹⁰ The Secretary-General then stated that the Statute of the United

¹⁰⁸⁸ Ibid, section XIII, para. 155.

¹⁰⁸⁹ A/61/758, para. 26.

¹⁰⁹⁰ Ibid., para 28.

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Nations Administrative Tribunal, which would form the basis for the Statute of the Appeals Tribunal, would need to be amended accordingly and beyond the recommendations of the Redesign Panel.¹⁰⁹¹

407. In 2007, the General Assembly considered the report of the Redesign Panel, the note by the Secretary-General, and other related reports in its adoption of resolution 61/261.¹⁰⁹² In this resolution, the General Assembly agreed that the formal system of administration of justice should comprise two tiers: the UNDT and the Appeals Tribunal, which would render binding decisions and order appropriate remedies.¹⁰⁹³ The General Assembly further decided that a decentralized UNDT should replace the then existing advisory bodies, including the Joint Appeals Board, Joint Disciplinary Committees, and other bodies as appropriate.¹⁰⁹⁴

408. Later in 2007, the Secretary-General issued report A/62/294. In this report, the Secretary-General stated that following consultations between staff and management within the SMCC, it was agreed that, in addition to the recommended criteria for the appointment of judges by the Redesign Panel,¹⁰⁹⁵ an express requirement for judicial experience in the field of

¹⁰⁹¹ Ibid.

¹⁰⁹² See A/61/815, A/60/376, A/61/524, A/60/72 and Corr.1 and A/61/71, A/59/883, A/60/7/Add.1. For the final text, see Official Records of the General Assembly, Sixtieth Session, Supplement No. 7A, A/60/315 and A/61/206, and A/C.5/60/10.

¹⁰⁹³ GA Res 61/261, para. 19.

¹⁰⁹⁴ Ibid., para. 20.

¹⁰⁹⁵ A/62/294, para. 58 stated that “[t]he Redesign Panel recommended criteria for the appointment of the judges, namely that the individuals: (a) Be of high moral character; (b) Have the qualifications and recognized competence necessary for appointment to high judicial office; (c) Have at least 10 years’ relevant professional experience in the case of the judges of the Dispute Tribunal and at least 15 years in the case of Appeals Tribunal judges.”

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administrative law (or its equivalent) would be included in the selection criteria for the judges of both the UNDT and the Appeals Tribunal.¹⁰⁹⁶

409. In resolution 62/228, near the end of 2007, the General Assembly decided that individuals who had access to the then current system of administration of justice should have access to the new system,¹⁰⁹⁷ and decided to endorse the qualifications of the judges as set out in the above report and further described in decision 62/519.¹⁰⁹⁸ Further, the General Assembly decided that the judges of the UNDT and Appeals Tribunal would be appointed by the General Assembly on the recommendation of the Internal Justice Council,¹⁰⁹⁹ that the UNDT would consist of (initially) three full-time judges in New York, Geneva, and Nairobi, and two half-time judges,¹¹⁰⁰ and that the Appeals Tribunal would be composed of seven members who would sit in panels of at least three.¹¹⁰¹

410. Additionally, the General Assembly decided that “further consideration [needed] to be given to cases before the United Nations Dispute Tribunal being decided by a panel of judges, depending on the nature of the cases, the workload of judges and the grounds for appeal, and requested the Secretary-General to present further proposals in this regard, including resource implications, to the General Assembly at the second part of its resumed sixty-second session[.]”¹¹⁰² It was also decided that judges would only serve one non-renewable seven-year

¹⁰⁹⁶

Ibid.

¹⁰⁹⁷

G A resolution 62/228, section A, para. 7.

¹⁰⁹⁸

Ibid., section III, para. 41.

¹⁰⁹⁹

Ibid., para. 40.

¹¹⁰⁰

Ibid., para. 42.

¹¹⁰¹

Ibid., para. 44.

¹¹⁰²

Ibid., para. 43.

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term on either the UNDT or Appeals Tribunal, with the exception of two of the initial judges of the Dispute Tribunal and three of the initial judges of the Appeals Tribunal (determined by drawing lots), who would serve three years and could consequently be able to apply to the same Tribunal for a non-renewable seven-year term.¹¹⁰³

411. Further, the General Assembly requested, among other things, that the Secretary-General report on the following issues: “(a) [d]raft statute for the United Nations Dispute Tribunal; (b) [d]raft statute for the United Nations Appeals Tribunal that reflects the decisions contained in the present resolution and resolution 61/261; (c) [j]urisdiction of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal; [and] (d) [g]rounds of appeal before the United Nations Appeals Tribunal[.]”¹¹⁰⁴

412. In Secretary-General report A/62/782, the draft statutes of the UNDT and the Appeals Tribunal were issued in annexes I and II of that report.¹¹⁰⁵ The Secretary-General elaborated that Article 2 of the draft statute of the UNDT set out the UNDT’s jurisdiction. Essentially, under its draft statute, the UNDT would have jurisdiction to hear cases from those individuals identified under Article 3 appealing any administrative decision alleged to be in non-compliance with the terms of appointment, conditions of employment, or which imposed a disciplinary measure.¹¹⁰⁶

413. In this report, the Secretary-General further stated that Article 2 of the draft statute of the Appeals Tribunal set out the jurisdiction of the Tribunal, which was principally a court of

¹¹⁰³ Ibid., para. 45.

¹¹⁰⁴ Ibid., para. 65.

¹¹⁰⁵ A/62/782, section III, para. 58.

¹¹⁰⁶ Ibid., para. 59.

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review with appellate jurisdiction. Under Article 2(1) of the draft statute, the Appeals Tribunal would be competent to hear appeals against judgments rendered by the UNDT in cases where the appellant had asserted that the UNDT had: “(a) [e]xceeded its jurisdiction or competence; (b) [f]ailed to exercise jurisdiction vested in it; (c) [c]ommitted a fundamental error in procedure that has occasioned a failure of justice; [or] (d) [e]rred on either a question of law or a question of material fact.”¹¹⁰⁷ Additionally, the Secretary-General stated that Articles 2(4) and (5) of the draft statute reflected the Secretary-General’s proposal that decisions taken by the Pension Fund and other organizations which, at that time, were subject to challenge before the United Nations Administrative Tribunal would come under the jurisdiction of the new Appeals Tribunal, which would continue to act as an administrative tribunal for the Pension Fund and those organizations.¹¹⁰⁸ At the end of his report, the Secretary-General stated that the General Assembly may wish to adopt the statutes of the UNDT and Appeals Tribunal attached as annexes I and II to his report.¹¹⁰⁹

414. By resolution 63/253 of 24 December 2008, the General Assembly adopted the statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, as set out in annexes I¹¹¹⁰ and II¹¹¹¹ to resolution 63/253.¹¹¹² The General Assembly further decided that

¹¹⁰⁷ Ibid., section III(B), para. 61.

¹¹⁰⁸ Ibid., para. 62.

¹¹⁰⁹ Ibid., section VII, para. 101(a).

¹¹¹⁰ G A Resolution 63/253 Annex I, Article 2, para. 1 stated that “1. [t]he Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Secretary-General as the Chief Administrative Officer of the United Nations: (a) To appeal an administrative decision that is alleged to be in noncompliance with the terms of appointment or the contract of employment. The terms “contract” and “terms of appointment” include all pertinent regulations and rules and all relevant administrative issuances in force

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those tribunals would be operational as of 1 July 2009, and would have no powers other than those stated within their respective statutes.¹¹¹³ By this resolution, the General Assembly did not include permission for staff associations to file applications before the Dispute Tribunal and decided to revert to the issue of the possibility of staff associations filing applications before the Dispute Tribunal at its sixty-fifth session.¹¹¹⁴ Annex I to this resolution stated that the Dispute Tribunal shall be competent to permit or deny leave to an application to file a friend-of-the-court brief by a staff association.¹¹¹⁵ Additionally, the General Assembly decided that interns, type II gratis personnel

at the time of alleged non-compliance; (b) To appeal an administrative decision imposing a disciplinary measure; (c) To enforce the implementation of an agreement reached through mediation pursuant to article 8, paragraph 2, of the present statute.” Further, G A resolution 63/253 Annex I, Article 3, para. 1 stated that “1. [a]n application under article 2, paragraph 1, of the present statute may be filed by: (a) Any staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes; (b) Any former staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes; (c) Any person making claims in the name of an incapacitated or deceased staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes.”

¹¹¹¹ G A resolution 63/253 Annex II, Article 2, para. 1 stated that “1. [t]he Appeals Tribunal shall be competent to hear and pass judgement on an appeal filed against a judgement rendered by the United Nations Dispute Tribunal in which it is asserted that the Dispute Tribunal has: (a) Exceeded its jurisdiction or competence; (b) Failed to exercise jurisdiction vested in it; (c) Erred on a question of law; (d) Committed an error in procedure, such as to affect the decision of the case; or (e) Erred on a question of fact, resulting in a manifestly unreasonable decision.” Further, G A resolution 63/253 Annex II, Article 2, para. 1(4) stated that “[i]n cases of appeal under paragraph 1 (e) of the present article, the Appeals Tribunal shall be competent: (a) To affirm, reverse or modify findings of fact of the Dispute Tribunal on the basis of substantial evidence in the written record; or (b) To remand the case to the Dispute Tribunal for additional findings of fact, subject to paragraph 5 of the present article, if it determines that further findings of fact are necessary.”

¹¹¹² G A resolution 63/253, para. 26. For more detailed information on the differences between the draft statutes and the adopted statutes of the UNDT and United Nations Appeals Tribunal, please compare Annexes I and II from A/62/782 with their respective Annexes from G A resolution 63/253.

¹¹¹³ *Ibid.*, section III, paras. 26-28.

¹¹¹⁴ G A resolution 63/253, para 15 stated that the General Assembly “decides to revert to the issue of the possibility of staff associations filing applications before the Dispute Tribunal at its sixty-fifth session.”

¹¹¹⁵ *Ibid.*

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and volunteers (other than United Nations Volunteers) would have the possibility of requesting an appropriate management evaluation, but would not have access to either of the Tribunals.¹¹¹⁶

Finally, the General Assembly requested the Secretary-General to submit the rules of procedure for the Tribunals for approval as soon as possible, and no later than the sixty-fourth session of the General Assembly. Until then, the General Assembly decided that the Tribunals could apply the rules of procedure provisionally.¹¹¹⁷

415. The Secretary-General submitted the rules of procedure in August 2009, during the sixty-fourth session of the General Assembly.¹¹¹⁸ The rules were established by their respective Tribunals in June of that year, and annexed to report A/64/229 for approval by the General Assembly.¹¹¹⁹

416. In General Assembly resolution 64/119, the General Assembly approved the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, as set out in annexes I and II to resolution 64/119.¹¹²⁰ Annex I, article 24 entitled “Rules of procedure of the United Nations Dispute Tribunal” stated that:

“Friend-of-the-court briefs

1. A staff association may submit a signed application to file a friend-of-the-court brief on a form to be prescribed by the Registrar, which may be transmitted electronically. The Registrar shall forward a copy of the application to the parties, who shall have three days to file any objections, which shall be submitted on a prescribed form.

¹¹¹⁶ Ibid., section I, para. 7.

¹¹¹⁷ Ibid., para. 29.

¹¹¹⁸ A/64/229, para. 2.

¹¹¹⁹ Ibid.

¹¹²⁰ G A resolution 64/119

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2. The President or the judge hearing the case may grant the application if it considers that the filing of the brief would assist the Dispute Tribunal in its deliberations. The decision will be communicated to the applicant and the parties by the Registrar.”¹¹²¹

Annex I, article 17, entitled “Rules of procedure of the United Nations Appeals Tribunal”, stated that:

“Friend-of-the-court briefs

1. A person or organization for whom recourse to the Appeals Tribunal is available and staff associations may submit a signed application to file a friend-of-the-court brief, which may be transmitted electronically. The Registrar shall forward a copy of the application to the parties, who shall have three days to file any objections on a prescribed form.

2. The President or the panel hearing the case may grant the application if it considers that the filing of the brief would assist the Appeals Tribunal in its deliberations. The decision will be communicated to the applicant and the parties by the Registrar.”¹¹²²

417. Shortly after the approval of the rules of procedure for the Tribunals, the General Assembly requested the Secretary-General to report on establishing a simplified procedure for non-staff personnel to contest matters before the UNDT, which would make binding decisions not subject to appeal and use streamlined procedures,¹¹²³ as well as the granting of access to the Tribunals to non-staff personnel, under their current rules of procedure.¹¹²⁴

418. By resolution 65/251, the General Assembly decided to defer until its sixty-sixth session a review of the statutes of the Tribunals, in the light of experience gained, including on the

¹¹²¹ G A resolution 64/119, Annex I, article 24.

¹¹²² G A resolution 64/119, Annex I, article 17.

¹¹²³ GA resolution 64/233, para. 9(c).

¹¹²⁴ Ibid., para. 9(d).

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efficiency of the overall functioning of the Tribunals, in particular regarding the number of judges and the panels of the United Nations Dispute Tribunal.¹¹²⁵

419. During the sixty-fifth session of the General Assembly, the Secretary-General submitted report A/65/373, which (in part) provided an update on the composition and functioning of the Tribunals. The Secretary-General reported that the General Assembly had elected three full-time judges and two half-time judges to the UNDT on 2 March 2009, and that the Assembly had subsequently elected three ad litem judges for a period of one year to assist in handling the backlog of cases transferred from the Joint Appeals Boards and the Joint Disciplinary Committees.¹¹²⁶ Additionally, the General Assembly elected seven judges to the Appeals Tribunal on the same date.¹¹²⁷ The Secretary-General further reported that the Appeals Tribunal held its first session from 15 March to 1 April 2010 in Geneva, and its second session from 21 June to 2 July 2010 in New York. The Secretary-General further stated that during its first session, the Appeals Tribunal rendered thirty-three judgments and another thirty-one judgments during its second session.¹¹²⁸

420. Later in 2010, the General Assembly adopted resolution 65/251, and noted with appreciation that the two appointed half-time judges had facilitated the constitution of three-judge panels for the UNDT that would conduct hearings on important matters.¹¹²⁹ Further, the General Assembly requested the UNDT to ensure that the best possible use was made of the ad

¹¹²⁵ GA resolution 65/251, para. 46.

¹¹²⁶ A/65/373, section B(1), para. 11.

¹¹²⁷ Ibid., section C(1), para. 36.

¹¹²⁸ A/65/373, para. 41.

¹¹²⁹ G A resolution 65/251, para. 43.

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litem judges in order to reduce the existing backlog of cases before the UNDT.¹¹³⁰ Finally, the General Assembly decided to defer a review of the statutes of the Tribunals, in light of the experience gained, until its sixty-sixth session. There were no further actions on this matter during the period under review.¹¹³¹

¹¹³⁰ Ibid., para. 44.

¹¹³¹ Ibid., para. 46.