

ARTICLE 101

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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. The organization of the present study follows closely that of the previous Repertory studies of Article 101. While the major headings are maintained, it has been deemed appropriate to add the following sub-headings in the Analytical Summary of Practice, under section II A 1:

g. Means for giving effect to the principle of geographical distribution:

- (i) Increase in the recruitment of staff in the General Service category of persons of different nationalities
- (ii) Greater use of fixed-term contracts
- (iii) Other suggested means

2. The two major questions treated in the present study are the concept of integrity of the staff and the principle of geographical distribution. Decisions of the General Assembly concerning specific aspects of conditions of service of the staff that did not give rise to discussions of Charter interpretation are mentioned briefly under the appropriate headings.

I. GENERAL SURVEY

3. During the period under review, the General Assembly adopted the following resolutions which bore upon the application or interpretation of the provisions of Article 101:

(a) By resolution 1097 (XI) of 27 February 1957, the General Assembly, taking note of the admission of twenty new Members to the United Nations, recommended that "in future appointments to the staff of the United Nations Secretariat, at all levels,

appropriate preference be given to nationalities which form a disproportionately small part of the Secretariat, subject to the provisions of Article 101, paragraph 3, of the Charter of the United Nations".

(b) By resolution 1226 (XII) of 14 December 1957, the General Assembly, recalling its recommendation in resolution 1097 (XI), quoted above, requested the Secretary-General "in making future appointments to the staff of the Secretariat of the United Nations, at all levels, to continue his efforts to ensure the fullest possible conformity with" that recommendation.

(c) By resolution 1294 (XIII) of 5 December 1958, the General Assembly, noting that some progress had been made towards the implementation of its resolutions 1097 (XI) and 1226 (XII), recommended that "(a) The Secretary-General should continue his efforts to achieve a better geographical distribution of the staff of the United Nations Secretariat at all levels, giving particular regard to posts at the top level" and "(b) More interchange of personnel between Headquarters and the field offices of the United Nations should be carried out whenever possible".

(d) By resolution 1227 (XII) of 14 December 1957, the General Assembly took note of "the report of the Secretary-General on the review of the Staff Regulations and of the principles and standards progressively applied thereto" which shed light on the meaning of the term "integrity" as a criterion in the employment of the staff.

4. The General Assembly also took decisions relevant to the "conditions of service" of staff members, such as resolutions 1095 (XI) and 1225 (XII) on the United Nations salary, allowance and benefit system, and resolutions 1201 (XII) and 1310 (XIII) concerning the pension system.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Principles governing selection of staff, conditions of service and organization of the Secretariat

1. *Necessity of securing highest standards of efficiency, competence and integrity*

**a. IN GENERAL

b. THE CONCEPT OF INTEGRITY

5. The meaning of the word "integrity", one of the paramount considerations governing the employment and the conditions of service of the staff, received attention in the report, "Review of the Staff Regulations and of the principles and standards progressively applied thereto", 1/ submitted by the Secretary-General to the General Assembly at its twelfth session, in October 1957.

6. The report of the Secretary-General dealt primarily with the criteria governing questions relating to the integrity of the staff, as developed and applied by the Special Advisory Board appointed by the Secretary-General under the third paragraph of Staff Regulation 9.1 (a), which deals with the termination of staff members holding permanent appointments.

1/ G A (XII), Annexes, a.i. 51, p. 20, A/C.5/726.

7. The Secretary-General further noted ^{2/} that in formulating policy on the recruitment and retention of staff, he was guided by two basic principles: (a) he could act only on charges supported by satisfactory evidence; (b) the standard of integrity and applicable criteria were based either on Charter provisions or on decisions of the General Assembly, and they did not necessarily coincide with those applied by a particular Member State.

8. The report stated that the following conclusions reached by the Special Advisory Board in specific cases were applied by the Secretary-General: ^{3/}

(a) A staff member who concealed a previous conviction for theft in a position of trust did not meet the highest standards of integrity required by the Charter;

(b) An excellent record in the Secretariat might be taken into account as a mitigating circumstance, but did not absolve a staff member from a possible charge of lack of integrity;

(c) Failure by a staff member to subordinate his personal interests to those of the Organization (Staff Regulations 1.1 and 1.9) might constitute a lack of integrity under Article 101 of the Charter;

(d) Cases of espionage or similar activities by a staff member against his own Government, should they occur, would be considered in violation of the provisions of Article 101;

(e) Possession by a staff member of cultural ties and sympathy with a country other than his own, in the absence of any proven conduct of an improper character, did not constitute a violation of Article 101;

(f) Material falsehood showed a failure to meet the highest standards of integrity required by the Charter, but the Secretary-General had discretionary powers in such matters.

9. The Secretary-General also dealt with ^{4/} the report, "Standards of Conduct in the International Civil Service", ^{5/} prepared by the International Civil Service Advisory Board (ICSAB) in accordance with a request made by the Administrative Committee on Co-ordination (ACC) in May 1954.

10. Referring to the three principal standards provided in the Charter for members of the Secretariat, the Secretary-General considered the first two - efficiency and competence - to be standards of performance as well as standards of conduct, and the third - integrity - as solely a standard of conduct related both to the duties and to the private life of staff members. With respect to this last-mentioned standard, the Secretary-General stated that the following remarks of ICSAB were of particular importance: ^{6/}

^{2/} Ibid., para. 15.

^{3/} Ibid., para. 16.

^{4/} Ibid., paras. 17-25.

^{5/} COORD/CIVIL SERVICE/5.

^{6/} G A (XII), Annexes, a.i. 51, p. 20, A/C.5/726, para. 23; quoted from COORD/CIVIL SERVICE/5, para. 4.

"Integrity, while perhaps not subject to exhaustive and precise definition, must be judged on the basis of the total behaviour of the person concerned. Such elementary personal or private qualities as honesty, truthfulness, fidelity, probity and freedom from corrupting influences, are clearly included. For the international official, however, the Charter also requires integrity as a public official, and especially as an international public official. Perhaps the clearest expression of this is the fact that he has dedicated himself to regulate his conduct with the interests of the international organization only in view. It follows that he must subordinate his private interests and avoid placing himself in a position where those interests would conflict with the interests of the organization he serves."

11. In resolution 1227 (XII), the General Assembly took note of the report of the Secretary-General on the "Review of the Staff Regulations and of the principles and standards progressively applied thereto".

2. *The principle of geographical distribution*

a. IN GENERAL

12. Following the admission 7/ of sixteen new Member States to the United Nations in December 1955, at the end of the tenth session, the question of achieving a balanced geographical distribution of the staff of the Secretariat was once again brought forward in the General Assembly at its eleventh session, when it decided, in resolution 1097 (XI), that the question of geographical distribution should be included as a separate item in the provisional agenda of the twelfth session of the General Assembly.

b. INTERPRETATION OF THE PRINCIPLE OF GEOGRAPHICAL DISTRIBUTION

13. The principle of geographical distribution was described by the Salary Review Committee in general terms as follows: 8/

"As regards the second part of Article 101 of the Charter, the purpose is not to provide various nationals with jobs in international secretariats but to ensure that the international secretariats contain competent personnel coming from and reflecting various backgrounds, with different problems and different cultures and differing psychological and emotional responses; without such a broad cross-section of differing experience an international secretariat could not fulfil the purposes of the Charter."

14. At the eleventh session of the General Assembly, the question arose as to whether the principle of geographical distribution should be the controlling factor in the promotion of staff. Two draft resolutions on this subject were introduced in the Fifth Committee.

15. The first, 9/ submitted by Panama, Peru, Spain and Venezuela, would recommend that the Secretary-General should give preference in recruitment to nationals of unrepresented or under-represented countries and that similar preference should be given in the matter of promotions. The second draft resolution, 10/ submitted by

7/ G A resolution 995 (X).

8/ G A (XI), Annexes, vol. II, a.i. 51, separate fascicle, A/3209, chap. V, para. 35.

9/ G A (XI), Annexes, vol. I, a.i. 43, p. 84, A/C.5/L.434.

10/ Ibid., A/C.5/L.435.

Afghanistan, Burma, Ceylon, Egypt, Ethiopia, India, Indonesia, Iran, Iraq, Nepal, Pakistan, Philippines, Saudi Arabia, Sudan and Yemen, would recommend that "in future recruitment and promotions to the staff of the United Nations at all levels, preference be given to the nationals of countries which are unrepresented and under-represented on the staff, having due regard to the provisions of Article 101 (3) of the Charter."

16. Some representatives took the view 11/ that there was a link between promotion and the principle of geographical distribution, although no reference to promotion was made in Article 101, para. 3 of the Charter. They therefore maintained that the principle of geographical distribution should be reflected in the promotion of staff.

17. Other representatives saw no connexion between promotion and the principle of geographical distribution and stressed the point 12/ that geographical distribution should not stand in the way of promotion, which was based on the merits and the seniority of the staff.

18. The representatives of the Secretary-General explained 13/ that the Charter and the Staff Regulations of the United Nations distinguished between recruitment and promotion. They also pointed out that in the practice of the Secretariat, the principle of geographical distribution was applied only to recruitment.

19. In view of the difference of opinions expressed, the Fifth Committee set up a working group in the hope of achieving a solution which might command wide acceptance. The draft resolution proposed by the working group omitted reference to promotion; it was approved 14/ by the Fifth Committee and subsequently adopted by the General Assembly as resolution 1097 (XI). 15/

C. CRITERIA FOR THE APPLICATION OF THE PRINCIPLE OF GEOGRAPHICAL DISTRIBUTION

20. At the twelfth session, questions were raised by delegations as to the meaning of the expression "desirable range", 16/ used by the Secretary-General as a basis for the application of the principle of geographical distribution. The answer given by the representative of the Secretary-General 17/ was that "desirable range", based on the scale of contributions, was only one of the guides used by the Secretary-General in the application of the principle of geographical distribution and that it was not "administered in a restrictive fashion".

21. A draft resolution 18/ submitted by the representative of Ceylon in the Fifth Committee would request the Secretary-General to determine, in accordance with the

11/ G A (XI), 5th Com., 564th mtg., paras. 72 and 74; see also G A (XII), 5th Com., 629th mtg., para. 4; 632nd mtg., para. 19; G A (XIII), 5th Com., 671st mtg., paras. 6 and 19.

12/ G A (XII), 5th Com., 629th mtg., paras. 13 and 18; 630th mtg., para. 24; G A (XIII), 5th Com., 671st mtg., para. 11.

13/ G A (XI), 5th Com., 564th mtg., para. 61; 565th mtg., para. 15; G A (XII), 5th Com., 630th mtg., para. 53; G A (XIII), 5th Com., 671st mtg., para. 14; G A (XIV), 5th Com., 642nd mtg., paras. 31 and 32.

14/ G A (XI), Annexes, vol. I, a.i. 43, p. 85, A/3550, para. 92.

15/ See para. 3 (a) above.

16/ G A (XII), 5th Com., 629th mtg., paras. 10 and 30. For a fuller explanation of this expression, see G A (XIV), Annexes, a.i. 54, A/C.5/784.

17/ G A (XII), 5th Com., 630th mtg., para. 58; 632nd mtg., para. 44.

18/ G A (XII), Annexes, a.i. 51, p. 2, A/3797, para. 39.

principles for the assessment of contributions of Member States to the United Nations budget, "quotas of posts rather than desirable ranges for the number of posts to be filled by the nationals of each Member State" 19/ as a guide for the achievement of more equitable representation of nationalities and wider geographical distribution of posts. The Fifth Committee subsequently adopted 20/ an amendment to delete this provision from the draft resolution.

22. Commenting on the above provision, the representative of the Secretary-General stated 21/ that a system of a fixed quota of posts would not be "compatible with the real needs of the United Nations or with the Secretary-General's responsibilities as chief administrative officer". He added that, in the Secretary-General's view, "the best way to ensure that the criteria laid down by the Charter were applied was to rely on his balanced judgement, as the chief administrative officer, whose duty it was, under the Charter, to select the staff"

****d.** THE IMPORTANCE OF THE PRINCIPLE OF GEOGRAPHICAL DISTRIBUTION IN RELATION TO THE NECESSITY OF SECURING THE HIGHEST STANDARDS OF EFFICIENCY, COMPETENCE AND INTEGRITY

****e.** POSTS TO WHICH THE PRINCIPLE OF GEOGRAPHICAL DISTRIBUTION IS NOT APPLICABLE

****f.** APPLICATION OF THE PRINCIPLE OF GEOGRAPHICAL DISTRIBUTION TO PARTICULAR CATEGORIES OF INDIVIDUALS

g. MEANS FOR GIVING EFFECT TO THE PRINCIPLE OF GEOGRAPHICAL DISTRIBUTION

23. In connexion with the question of the geographical distribution of the staff of the Secretariat, the Fifth Committee reported: 22/

"... The method of fulfilling the purposes inherent in Article 101, paragraph 3, of the Charter came under discussion. Some delegations believed that the paragraph should be interpreted in its entirety and in the context of the Charter as a whole. A political organization, intended ultimately to encompass all the States of the world, could not attach a secondary importance to the principle of geographical distribution as applied to the composition of a principal organ. The considerations set forth in the two sentences of Article 101, paragraph 3, were not mutually inconsistent: the requisite talent was to be found in every region of the world. Other delegations, while agreeing that the two conditions laid down in paragraph 3 of that Article were inseparable, emphasized that, while the first of these governed the employment and conditions of service, the second was limited to the recruitment of the staff. The principle of the widest possible geographical distribution neither could nor should be linked to questions of grading or promotion.

"... The principle of geographical distribution was not at issue. The discussion was largely directed to questions of method; by what means and at what pace

19/ Ibid., para. 42.

20/ Ibid., para. 44.

21/ G A (XII), 5th Com., 630th mtg., para. 56.

22/ G A (XII), Annexes, a.i. 51, p. 2, A/3797, paras. 29 and 30.

the existing imbalance in the distribution of staff by nationality might be redressed."

i. Increase in the recruitment of staff in the General Service category of persons of different nationalities

24. In his report on changes in geographical distribution, submitted to the General Assembly at its eleventh session, the Secretary-General noted 23/ the suggestion of the Salary Review Committee 24/ that the geographical distribution of staff could possibly be improved by an increase in the recruitment of staff to the General Service category of persons of different nationalities available in the various duty stations. He expressed the view that employment of such staff without international benefits, such as home leave and educational grants, would give rise to problems of personnel management and of morale. He would, however, bear the question in mind in view of the possibilities of recruitment in various duty stations.

ii. Greater use of fixed-term contracts

25. In accordance with the decision 25/ taken by the General Assembly at the eleventh session, the question of the greater use of fixed-term contracts continued to form the subject of annual review by the Fifth Committee. 26/

26. The reports 27/ of the Secretary-General on the question of geographical distribution indicated that the decision of the Fifth Committee at the eleventh session 28/ with regard to filling suitable posts on a secondment basis (the proportion to rise to about 20 per cent as opportunity offered) had been substantially implemented. Suggestions were nevertheless made 29/ in the General Assembly that the proportion of fixed-term staff should be at least 25 per cent and should even be increased to 35 or 40 per cent. 30/

iii. Other suggested means

27. Other means suggested by delegations were (a) rotation of high-level posts among nationals of Member States by secondment on fixed-term contracts, 31/ (b) voluntary retirement of staff below the statutory age limit and payment of indemnities, 32/ and (c) ending the grant of permanent contracts. 33/

23/ G A (XI), Annexes, vol. I, a.i. 43, p. 71, A/C.5/689, para. 4.

24/ G A (XI), Annexes, vol. II, a.i. 51, separate fascicle, A/3209 chap. V, paras. 35-37.

25/ G A resolution 1097 (XI); G A (XI), Plen., vol. II, 662nd mtg., para. 43.

26/ G A (XI), Annexes, vol. II, a.i. 51, p. 38, A/3558, paras. 123-129; see the reports of the Secretary-General (G A (XII), Annexes, a.i. 51, p. 19, A/C.5/724; G A (XIII), Annexes, a.i. 53, p. 10, A/C.5/751; and G A (XIV), Annexes, a.i. 54, p. 11, A/C.5/785).

27/ G A (XI), Annexes, vol. I, a.i. 43, p. 71, A/C.5/689; G A (XII), Annexes, a.i. 51, p. 16, A/C.5/718/Rev.1; G A (XIII), Annexes, a.i. 53, p. 1, A/C.5/750; also G A (XIV), Annexes, a.i. 54, p. 1, A/C.5/784.

28/ G A (XI), 5th Com., 586th mtg., para. 33.

29/ Ibid., 563rd mtg., para. 46.

30/ G A (XII), 5th Com., 633rd mtg., para. 26.

31/ G A (XI), 5th Com., 564th mtg., para. 54; 565th mtg., para. 16.

32/ Ibid., para. 50; G A (XII), 5th Com., 629th mtg., para. 4.

33/ G A (XIV), 5th Com., 740th mtg., para. 24.

****3. *The prohibition of distinction as to race, sex or religion*******B. Appointment of the staff****C. Conditions of service******1. *Authority responsible for determining conditions of service*****2. *Entitlements of the Staff***

28. During the period under review, the General Assembly adopted several resolutions 34/ concerning the entitlements of the staff. These included revisions of base salary scales, post adjustments, children's allowances and education grants, the Staff Assessment Plan, dependency benefits, repatriation grants and service benefits. The General Assembly also approved an increase in pensionable remuneration in the professional category and at higher salary levels and authorized the Joint Staff Pension Board, pending a comprehensive review, to supplement current pension and life annuity payments.

****3. *Responsibilities of staff members*******D. Disciplinary measures******E. Recourse available to staff members******F. Organization of the Secretariat**

34/ Resolutions 1095 (XI) and 1225 (XII), "United Nations salary, allowance and benefits system"; resolution 1201 (XII), "Amendments to the Regulations of the United Nations Joint Staff Pension Fund"; resolution 1221 (XII), "Schedule of post adjustments: classification for the United Nations Office at Geneva"; resolution 1234 (XII), "Emoluments of Under-Secretaries: amendments to the Staff Regulations of the United Nations"; resolution 1295 (XIII), "Amendments to the Staff Regulations of the United Nations"; resolution 1309 (XIII), "Annual report of the United Nations Joint Staff Pension Board and amendments to the Regulations of the United Nations Joint Staff Pension Fund"; and resolution 1310 (XIII), "Pensionable remuneration of the staff".

Chapter XVI

MISCELLANEOUS PROVISIONS

