

# ARTICLE 101

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## ARTICLE 101

### 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 this study follows that established in *Repertory Supplement No. 3*. It has, however, been considered appropriate to add the following sub-heading under II A 2 (g): "(iii) Equitable linguistic balance in the Secretariat". The heading II C 2: "Entitlements of the staff", which in the previous *Supplement* was divided into "a. In active service" and "b. Pensions", is now divided into "a. In active service" and "b. After service", in order to reflect new decisions affecting staff members and their dependants after separation from the Organization. The latter subheading is divided in turn into "(i) Pensions" and "(ii) Other after-service entitlements".
2. The major question treated in this study is that of geographical distribution. Other decisions of the General Assembly concerning specific aspects of the conditions of service of the staff are mentioned under the appropriate headings. In addition, decisions of the Administrative Tribunal relating to the interpretation of the Staff Regulations and Rules issued under Article 101 are reported.

### I. GENERAL SURVEY

3. During the period under review, the General Assembly continued to devote considerable attention to the question of the equitable geographical distribution of the staff of the Secretariat. In that context it also took up the related question of the proportion of fixed-term appointments in relation to permanent appointments. The issue of linguistic balance in the Secretariat was also considered, both in the context of the recruitment of staff and in that of the conditions of service of existing staff. Resolutions concerning both geographical distribution and linguistic balance were adopted by the General Assembly at the twenty-first, twenty-second, twenty-third and twenty-fourth sessions (resolutions 2241(XXI), 2359(XXII), 2480(XXIII) and 2539(XXIV)).

4. The General Assembly also took decisions on the conditions of service of the staff, such as resolutions 2485(XXIII) concerning revised salary scales for staff in the Professional and higher categories; resolutions 2486(XXIII) and 2541(XXIV) on the principles underlying the salary system for the international civil service; resolution 2481 A (XXIII) concerning an increase in the education grant; resolution 2191(XXI) concerning amendments to the United Nations Joint Staff Pension Fund Regulations; resolution 2524(XXIV) on accumulation of pension benefits; resolution 2367(XXII) concerning amendments to the pension scheme regulations for members of the International Court of Justice; and resolutions 2359 B (XXII) and 2480 B (XXIII) on linguistic incentives for staff in the

Professional and higher categories. At its twenty-first session, the Assembly took a decision on the application of the staff assessment plan for staff members of United States citizenship and another on the extension of health insurance schemes to staff members and their dependants or survivors upon retirement or separation.<sup>1</sup>

5. Under decisions of the General Assembly and the Economic and Social Council, a subsidiary organ known as the Joint Inspection Unit was established during the period under review. These decisions, as well as the exercise by the Secretary-General of his authority to appoint staff in connexion with the appointment of fellows of the United Nations Institute for Training and Research (UNITAR) are discussed under this Article.

6. The Administrative Tribunal of the United Nations took several decisions concerning its competence and interpreting the contractual relationship of the staff with the United Nations in light of the relevant provisions of the Charter, the Staff Regulations and Rules and directives issued by the Secretary-General. In one case,<sup>2</sup> a decision of the Tribunal, concerning time-limits applicable to staff members serving away from Headquarters and the United Nations Office at Geneva, served as the basis for the introduction of amendments to Staff Rules 111.3 and 111.4.

<sup>1</sup>G A (XXI), Annexes, a.i. 81, A/6605.

<sup>2</sup>AT/DEC/105 (April 1967).

## 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<sup>3</sup>

##### \*\*a. *In general*

##### \*\*b. *The concept of integrity*

#### 2. THE PRINCIPLE OF GEOGRAPHICAL DISTRIBUTION

##### a. *In general*

7. During the period covered by this *Supplement*, the geographical distribution of the staff of the Secretariat was considered by the General Assembly at every session. The debates on the composition of the Secretariat in the Fifth Committee centred on the principle of geographical distribution, its interpretation and application, thus continuing to reflect the importance attached by the General Assembly to the attainment of an equitable representation of the various cultures and methods of work of all Member States in the Secretariat, bearing in mind the requirements of efficiency, competence and integrity laid down in the Charter of the United Nations.

8. With the admission of new Member States, the membership of the Organization increased from 117 to 125 during the period under review. The recruitment of nationals of newly admitted Member States continued to be a matter of concern for the Secretary-General. In some cases, difficulties in recruiting nationals of these Member States were aggravated by the fact that developing countries were frequently short of qualified personnel that could be spared for service in international organizations.

9. During the debates on the composition of the Secretariat in the Fifth Committee, the question of a greater use of fixed-term appointments was discussed at the initiative of some delegations which suggested it as a means of accelerating the participation of nationals from inadequately represented Member States, and in particular developing countries, in the Secretariat.

10. Two other questions related to the principle of geographical distribution were also the subject of discussion in the Fifth Committee. The first was the modification of the desirable ranges of posts by the addition of a qualitative factor to take account not only of posts allocated for each Member State but also of the levels of the posts. The second was the introduction of a linguistic factor in the guidelines for recruitment policy in order to ensure a better balance between the working languages of the Organization, and this was subsequently broadened to cover also the conditions of service of the staff.

11. As noted in the General Survey above, during the period under review the General Assembly adopted the following four resolutions on the geographical distribution of the staff: resolutions 2241(XXI), 2359(XXII), 2480(XXIII) and 2539(XXIV).

### b. *Interpretation of the principle of geographical distribution*

12. While the Charter refers to "recruiting the staff on as wide a geographical basis as possible", the term "geographical distribution" has, in the practice of the General Assembly, assumed a more technical meaning, that is to say, the geographical distribution of staff holding posts subject to criteria designed to ensure wide and balanced geographical distribution. It has been related to the question of the criteria by which the "desirable range of posts" subject to geographical distribution to be attributed to the various Member States is computed; to a system of "weights" designed to assess not only the number but also the level of posts assigned to each Member State; and to the question of an equitable linguistic balance in the staff of the Secretariat.

13. In resolution 2359 A (XXII) of 19 December 1967, the General Assembly reaffirmed that the principle of an equitable geographical distribution in the composition of the Secretariat did not conflict with the paramount consideration in the employment of staff, namely, the necessity of securing the highest standards of efficiency, competence and integrity, as laid down in Article 101(3) of the Charter and reaffirmed further that, in view of its international character and in order to avoid an undue predominance of national practices, the policies and administrative methods of the Secretariat should reflect, and profit to the highest degree from, the assets of the various cultures and the technical competence of all Member nations.

14. At the twenty-third session of the General Assembly, during the debate in the Fifth Committee, many delegations acknowledged the delicacy of the task of balancing the various elements of the directives of the General Assembly to the Secretary-General which had to be borne in mind in the recruitment of staff, namely, the need to ensure at every stage a balance between the nationalities representing the growing number of Member States; the importance of maintaining a balance between permanent and fixed-term appointments; and the need to bring about a better balance among the working languages. According to Article 101(3) of the Charter, the paramount consideration in the recruitment of staff was the necessity of securing the highest standards of efficiency, competence and integrity, but there was no incompatibility between this provision and the requirement of the same article that due regard should be paid to the importance of recruiting the staff on as wide a geographical basis as possible. The Secretariat should be universal in character and would be enriched by having among its staff representatives of all the cultures and working methods of Member States. Various delegations urged that the number of staff from different regions in the senior levels of the Secretariat should be closely related to their desirable ranges. A number of delegations stressed the contribution of staff members from the newer Member States which had demonstrated their willingness to participate in the work of the Secretariat and to assume full responsibility. The Secretary-General was urged to recognize the professional experience of staff members from those Member States rather than their academic qualifications alone. Many delegations expressed the opinion, that the methods of work of the Secretariat should reflect the

<sup>3</sup>See also para. 29 below.

various cultures and the technical competence of all nations.<sup>4</sup>

15. At the twenty-fourth session of the General Assembly, during the debate in the Fifth Committee, some delegations concluded that steady progress had been made towards a more equitable geographical distribution of the staff and that the composition of the Secretariat was nearly satisfactory. They urged that renewed attention should be given to the needs of the Secretariat and to the qualifications of candidates. They recalled that, under the Charter, the paramount consideration in the recruitment of staff was the necessity of securing the highest standards of efficiency, competence and integrity. Other delegations considered that there had been no substantial improvement in the distribution of staff by nationality, particularly at the senior levels and urged that prompt action should be taken to correct this imbalance.<sup>5</sup>

16. Many delegations stressed that the guidelines established by the General Assembly in previous resolutions were meant to regulate future recruitment and not to affect the terms of appointment of existing staff. The representative of the Secretary-General assured the Committee that the principle of geographical distribution was not considered relevant to promotion or placement.<sup>6</sup>

17. In resolution 2539(XXIV) of 11 December 1969, adopted upon the recommendation of the Fifth Committee, the General Assembly requested the Secretary-General to continue his efforts to achieve a better geographical distribution of the staff of the Secretariat at all levels, bearing in mind the requirements of the Charter of efficiency, competence and integrity.

*c. Criteria for the application of the principle of geographical distribution*

18. At the twenty-first session of the General Assembly, during the debate on composition of the Secretariat in the Fifth Committee, the disparity in the distribution of the staff occupying senior posts in the Secretariat and, more particularly, the "over-representation" of a few countries within an otherwise adequately "represented" region, were the subject of considerable debate. Some delegations noted that the current system, under which the desirable ranges or posts were established on a numerical basis without taking into account the level of the posts, produced a misleading picture. It was clearly unreasonable, they maintained, to equate posts involving duties and responsibilities of a policy-making nature with those at the junior levels. Among the modifications that might be considered, it was suggested that a senior post should count as the equivalent of one or more professional posts. Another suggestion was to allot points for each level, starting with one point for a P-1 and rising to six or seven points for an Under-Secretary-General. Underlying all those proposals was the belief that, if equitable geographical distribution was to be achieved, the system of determining desirable ranges of posts for individual countries should be reviewed so as to take into account both the number and the level of posts.<sup>7</sup> Several delegations questioned the usefulness and desirability of undertaking such a review. The task of the Secretary-General could only be made more diffi-

cult if a new element of rigidity were introduced into the system of desirable ranges.<sup>8</sup>

19. In resolution 2241 A (XXI), of 20 December 1966, the Assembly requested the Secretary-General to study the question of determining the desirable ranges of posts for individual countries, taking into account the level of appointment together with the number of posts.

20. In his report on the composition of the Secretariat submitted to the General Assembly at its twenty-second session,<sup>9</sup> the Secretary-General recommended that the figure of 2,000 be adopted as the new base for the calculation of the desirable ranges for each Member State instead of the current figure of 1,500 which had lost its validity with the increase to 1,789 in the number of professional posts subject to geographical distribution. He recommended that the membership factor should be adjusted at the same time, from a minimum entitlement for each Member State of one to five posts to a minimum of one to six posts, and that the population factor should be adjusted at the same time from 100 to 130 posts.

21. The possibility of introducing a factor based on the importance, or "weight", of posts into the calculation of the desirable ranges for Member States was examined. Four systems of weighting which might be adopted were shown in the report. The Secretary-General concluded, however, that only marginal refinements would result from the introduction of any of the systems described.

22. During the debate on the item by the Fifth Committee, the Secretary-General's proposals for the revision of the base for calculating the desirable ranges were generally accepted.<sup>10</sup> Concern was, however, expressed by a number of delegations at the distribution of staff, which they considered as not satisfactory, particularly in the higher policy-making posts of the Secretariat. Many of these delegations favoured the introduction of a weighting factor in the calculation of desirable ranges as a means of accomplishing a better geographical representation at the higher levels. Several delegations expressed preference for the starting salary to be used as the main element, if any weighting factor was to be adopted. On the other hand, several delegations were opposed to the introduction of a weighting factor. They considered that it would be cumbersome and complex to operate and might hamper progress rather than assist the achievement of a more equitable distribution of posts.<sup>11</sup>

23. In resolution 2359 A (XXII), of 19 December 1967, the Assembly approved the measures outlined by the Secretary-General in his report for the adjustment of the base for the calculation of desirable ranges and for the population and membership factors. It also requested the Secretary-General to include in his future reports on the composition of the Secretariat a table, to be prepared on the basis of a system chosen out of the four systems outlined in his present report, showing the geographical distribution of posts by nationality and level.

24. At the twenty-third session of the General Assembly, during the debate in the Fifth Committee, it was suggested that the recruitment of staff from Member States which had exceeded their desirable range might

<sup>4</sup>G A (XXIII), Annexes, a.i. 81, A/7472, para. 10.

<sup>5</sup>G A (XXIV), Annexes, a.i. 83, A/7851, para. 9.

<sup>6</sup>*Ibid.*, para. 10.

<sup>7</sup>G A (XXI), Annexes, a.i. 81, A/6605, para. 17.

<sup>8</sup>*Ibid.*, para. 18.

<sup>9</sup>G A (XXII), Annexes, a.i. 82, A/6860.

<sup>10</sup>*Ibid.*, A/7001, para. 13.

<sup>11</sup>*Ibid.*, A/7001, para. 14.

be suspended, as a possible means of bringing about quicker adjustments in the composition of the Secretariat. Other delegations pointed out that it was essential for the Secretary-General to be able, in certain circumstances, to select candidates with the required skills wherever they could be found.<sup>12</sup> The representative of the Secretary-General assured<sup>13</sup> the Committee that recruitment from over-represented countries would be restricted to special cases in which he was satisfied that qualified candidates of other nationalities were not available.

25. Upon the recommendation of the Fifth Committee, the General Assembly approved resolution 2480 A (XXIII), of 21 December 1968, in which it requested the Secretary-General to continue to include in his future reports a table based on weighted geographical distribution, as well as to continue his efforts to achieve a better geographical distribution of the staff of the Secretariat at all levels.

26. During the twenty-fourth session of the General Assembly, some delegations participating in the debate on the item in the Fifth Committee endorsed the view that the system of desirable ranges of posts for each country and region was neither intended to be—nor could it be—strictly applied. It was no more than a recruitment guide which must be used with discretion so that the posts created for carrying out the approved programmes would not remain vacant for unduly long periods. It was noted in that connexion that the reserve of posts apportioned regionally under the population factor provided a measure of flexibility in the operation of the system. Other delegations, citing the recommendation in the report of the Committee on the Reorganization of the Secretariat<sup>14</sup> urged that no recruitment should take place from countries which were over the limit of their desirable range. A number of delegations questioned the appropriateness of recruiting nationals of “over-represented” Member States from an “under-represented” region, while others cautioned against linking the principles of regional balance in the distribution of the staff and of linguistic balance.<sup>15</sup>

27. A proposal by one delegation to include a paragraph in the report of the Fifth Committee expressing concern at the unsatisfactory progress made in achieving an equitable geographical distribution in the Secretariat and renewing its request to the Secretary-General to take all necessary measures to ensure the earliest possible implementation of the Assembly’s decisions on the matter was subsequently revised to note that some progress had been made and to include a reference to Article 101(3) of the Charter.<sup>16</sup>

28. On the recommendation of the Fifth Committee, the Assembly approved resolution 2539(XXIV), of 11 December 1969, which, in its preambular paragraphs, reaffirmed the principles and factors enunciated in resolution 1852(XVII), and, in its operative paragraphs, requested the Secretary-General to continue his efforts to achieve a better geographical distribution of the staff, to give preference in recruitment to nationals of countries not yet represented or inadequately represented, in particular with respect to appointments to higher posts, and welcomed the Secretary-General’s

intention to prepare a long-term plan of recruitment as a means of accelerating the achievement of an equitable geographical distribution of 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*

29. During the period under review, representatives continued to differ with respect to the relative weight to be attached to each of the principles laid down in Article 101(3), namely, the necessity of securing the highest standards of efficiency, competence and integrity, and recruitment on as wide a geographical basis as possible, also known as the principle of geographical distribution. Some representatives held that, since Article 101(3) stated that efficiency, competence and integrity were the “paramount” consideration, the principle of geographical distribution was subordinate to it. Others felt, instead, that neither of the principles should take precedence over the other and upheld the importance of wide geographical distribution. A third group of representatives believed that both principles were equally important and could and should be reconciled. This question is also analysed under II A 2(b), “Interpretation of the principle of geographical distribution”.

\*\*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*

\*\* (i) *Individuals from Non-Self-Governing and Trust Territories*

\*\* (ii) *Stateless persons or nationals of non-member States*

\*\* (iii) *Individuals with status of permanent residence at duty station*

(iv) *Officials at senior level*

30. In his report on the composition of the Secretariat submitted to the General Assembly at its twenty-first session,<sup>17</sup> the Secretary-General, reviewing the progress made during the previous year in the recruitment of staff on as wide a geographical basis as possible, said that, while one of the seven regions established for recruitment purposes was still beneath its range as regards total representation in the Secretariat, the participation of all regions at the senior levels was rather more balanced, as a result of the continuing efforts towards selective recruitment from under-represented regions.<sup>18</sup>

31. In resolution 2241 A (XXI), of 20 December 1966, the General Assembly noted that in determining recruitment priorities the Secretary-General had borne in mind the need for a more equitable distribution of staff among Member States within the various regions, in particular at the level of senior posts. In the same resolution, the Assembly requested the Secretary-General to study the question of determining the desirable range of posts for individual countries taking into account the

<sup>12</sup>G A (XXIII), Annexes, a.i. 81, A/7472, para. 11.

<sup>13</sup>*Ibid.*, para. 12.

<sup>14</sup>G A (XXIII), Annexes, addendum to a.i. 74, A/7359.

<sup>15</sup>The question of linguistic balance in the Secretariat is covered in paras. 40-51 below.

<sup>16</sup>G A (XXIV), Annexes, a.i. 83, A/7851, paras. 22-24.

<sup>17</sup>G A (XXI), Annexes, a.i. 81, A/6487.

<sup>18</sup>*Ibid.*, A/6605, para. 3.

level of appointment together with the number of posts. This question is considered in this *Supplement* under subheading II A 2(c), "Criteria for the application of the principle of geographical distribution."

32. At the twenty-second, twenty-third and twenty-fourth sessions of the General Assembly, the question of the representation of Member States at the senior levels of the Secretariat was considered during the discussion in the Fifth Committee concerning the composition of the Secretariat. Upon the recommendation of the Fifth Committee, the Assembly adopted resolutions 2359(XXII) of 19 December 1967, 2480(XXIII) of 21 December 1968, and 2539(XXIV) of 11 December 1969, in which the Assembly reaffirmed the need for a more equitable geographical distribution in the Secretariat, in particular at the level of senior posts, and renewed its request to the Secretary-General to continue his efforts in that direction.

*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*

33. During the period under review, the question of the proportion of fixed-term contracts to permanent contracts was discussed in connexion with geographical distribution at every session of the General Assembly except the twenty-third.

34. The report of the Secretary-General on the composition of the Secretariat submitted to the General Assembly at its twenty-first session,<sup>19</sup> which served as a basis for the debate in the Fifth Committee, showed that there had been a slight increase in the proportion of staff on fixed-term appointments, which stood at 29.7 per cent, as against 28.1 per cent a year earlier. The report stated that the wastage inherent in short-term service had, however, begun to be offset by a progressive lengthening of the initial term of appointment, by a greater acceptance of extensions of such appointments for additional periods and by a decrease in the number of resignations by staff holding fixed-term appointments.<sup>20</sup>

35. During the consideration of the item by the Fifth Committee at the twenty-first session, some representatives favoured a greater use of fixed-term appointments to achieve a more rapid increase in the participation of nationals of those countries which were still under-represented in the Secretariat. Others considered that heavy reliance on fixed-term appointments constituted a shaky foundation on which to build an efficient and independent staff.

36. The General Assembly, in the seventh preambular paragraph of resolution 2241(XXI), recognized "the need for a large proportion of permanent contracts and fixed-term contracts of longer duration to ensure the stability and efficient operation of the Secretariat." In paragraph 1 of the same resolution, the Assembly expressed its belief that "as a temporary measure and under the existing conditions, increased recruitment on the basis of fixed-term contracts, especially in the case

of developing countries, might help to achieve a balanced geographical distribution."

37. During the Fifth Committee's debate on the item at the twenty-second session, a number of representatives noted that the proportion of staff on fixed-term rather than career appointments had risen above the desirable proportion of 25 per cent to 30.6 per cent. Some stressed the influx of new blood into the Secretariat and of talents not otherwise available which had resulted from the use of fixed-term appointments, while others attached importance to the maintenance of a high proportion of staff on permanent appointments to ensure the continuity and efficiency of the Secretariat.<sup>21</sup>

38. During the debate of the item by the Fifth Committee at the twenty-fourth session, some representatives maintained that the relatively high proportion of fixed-term staff had diminished the efficiency and stability of the Secretariat and should therefore be reduced as the geographical distribution of the staff improved. Other delegations favoured more fixed-term appointments as a means of allowing the Secretariat to adjust to changing requirements and to bring about a better geographical distribution of the staff.<sup>22</sup>

39. In the fifth preambular paragraph of resolution 2539(XXIV), dated 11 December 1969, the General Assembly recognized that "long-term service is conducive to greater efficiency in certain posts entailing complex duties and responsibilities."

(iii) *Equitable linguistic balance in the Secretariat*

40. At the twenty-first session of the General Assembly, during the debate on composition of the Secretariat in the Fifth Committee, the issue of linguistic balance in staff recruitment was raised by some delegations in the context of observations on the apparent differentiation practised by the Secretariat as between English-speaking and French-speaking candidates. It was suggested that the requirement that French-speaking candidates should have a knowledge of English without a corresponding requirement that English-speaking candidates should have a knowledge of French amounted to a discrimination against French as a working language of the Organization.<sup>23</sup> Other delegates voiced misgivings at the introduction of the language element into the discussion of recruitment policy.<sup>24</sup> The issue was subsequently broadened to cover the three working languages cited in rule 51 of the rules of procedure<sup>25</sup> of the General Assembly, namely, English, French and Spanish.

41. In resolution 2241 B (XXI), of 20 December 1966, the Assembly requested the Secretary-General to study the methods by which a more equitable use of the working languages of the Organization could be ensured as well as a better balance among those languages in the recruitment of staff at all levels, and in particular at the higher levels.

42. In his report on the composition of the Secretariat submitted to the General Assembly at its twenty-second session,<sup>26</sup> the Secretary-General, referring to the Assembly's request in resolution 2241 B (XXI), pointed out that while English, French and Spanish were working languages of the Assembly and the Economic and Social

<sup>19</sup>G A (XXI), Annexes, a.i. 82, A/7001, para. 12.

<sup>22</sup>G A (XXIV), Annexes, a.i. 83, A/7851, para. 15.

<sup>23</sup>G A (XXI), Annexes, a.i. 81, A/6605, para. 12.

<sup>24</sup>*Ibid.*, para. 13.

<sup>25</sup>A/520/Rev.8 (March 1966).

<sup>26</sup>G A (XXII), Annexes, a.i. 82, A/6860.

<sup>19</sup>G A (XXI), Annexes, a.i. 81, A/6487.

<sup>20</sup>*Ibid.*, A/6605, para. 4.

Council, the working languages of the Security Council, Trusteeship Council and the Secretariat were English and French. The distinction between working and official languages in the Secretariat had broad practical implications whereas the distinction in the other four principal organs mentioned above had steadily diminished. The factors controlling the use of languages in the Secretariat were chiefly external to it and serious administrative considerations would have to be taken into account if a linguistic criterion was incorporated into the recruitment procedures or if a language factor was introduced into the system of desirable ranges. The Secretary-General concluded that considerable advances had been made towards the goal of an effective Secretariat enjoying the confidence of all Member States and that only limited modifications in the system of calculating desirable ranges were required in the light of the changed circumstances in 1967. The system was not susceptible to easy or useful refinement by the application of weights or by the introduction of a linguistic factor. Equity in the use of working languages by the Secretariat and a better balance among them in the recruitment of staff was best served by the continuing efforts of the Secretary-General to meet the desirable ranges at all levels.

43. During the debate on the item in the Fifth Committee, the linguistic imbalance of the Secretariat, particularly at the senior levels, and the over-representation of nationals from English-speaking countries was deplored by many delegations which insisted that there should be no inequity between the working languages of the Organization.<sup>27</sup>

44. The introduction of a language bonus, as well as an accelerated programme of language instruction, was widely discussed as a means of improving the linguistic balance within the Secretariat. Opposition was expressed to the introduction of a bonus because of the difficulty of its administration and because of its budgetary implications which would also affect the specialized agencies and other organizations applying the common system of salaries and allowances.<sup>28</sup>

45. In resolution 2359 B (XXII), of 19 December 1967, the Assembly invited the Secretary-General to continue to take steps to achieve progress in the implementation of its resolution 2241 B (XXI) with a view to a better utilization of the linguistic abilities of the staff and a better balance among the working languages in the recruitment of staff at all levels and, in particular, at the higher level, without prejudice to the principle of equitable geographical distribution. It also invited the Secretary-General to take steps to ensure a linguistic balance within the Secretariat, including in particular the presence of staff using the different working languages of the United Nations in the services responsible for the recruitment of staff, and the early introduction of an accelerated language instruction programme and of a bonus for professional staff who used two working languages, on the understanding that the bonus system would not be implemented before 1969 so that the Assembly could consider a report by the Secretary-General on the question at its twenty-third session.

46. During the twenty-third session of the General Assembly, the discussion by the Fifth Committee on the use of working languages within the Secretariat turned on the most appropriate means of encouraging staff members to improve their linguistic skills. Under the

proposals submitted by the Secretary-General in his report,<sup>29</sup> certain changes were envisaged in the procedures of recruitment, award of within-grade increments and promotion in addition to an extension of the language training programme. The Secretary-General recommended that, as from 1 January 1970, candidates for recruitment should be considered as meeting the minimum requirements of the Secretariat if they were fluent in one of its working languages. In the case of recruitment for service with a subsidiary organ of the United Nations, the minimum requirement could be fluency in one of the working languages of that organ provided that, upon appointment, which could be for a fixed term, such candidates would be expected to avail themselves of the language training programme and to pass a test in one of the working languages of the Secretariat—English or French—normally within two years. The Secretary-General further recommended that, in the performance of their duties, staff members should, progressively, be enabled to use the working language of their choice, through the provision of adequate supporting services. In consideration for promotion, where professional qualifications and performance were equal, staff members who were fluent in one working language and had knowledge of the other should be given preference over those who did not. As from 1 January 1972, knowledge of a second working language of the General Assembly—English, French or Spanish—defined as comprehension of the written and spoken word, should be included among the standards to be applied in the promotion of staff to posts subject to geographical distribution and should entitle such staff to within-grade salary increments at shorter intervals than otherwise applicable.

47. A number of delegations recognized the common objective of achieving an equitable linguistic balance within the Secretariat, though there had been some difference of opinion at the previous session on the best means of achieving this. They welcomed the proposals of the Secretary-General which, in a modified form, formed the basis of a draft resolution which also took into account the opinions on the subject expressed during the previous two sessions.<sup>30</sup>

48. Many delegations spoke in support of the draft resolution and pointed out that neither of the working languages of the Secretariat should be predominant and neither should enjoy a privileged status. Those languages were equally important and a knowledge of them would not hinder, but rather facilitate, the work of the Organization. Some delegations, noting that the Secretary-General in his report had used the term "working languages", expressed their belief that staff members should be encouraged to learn any of the official languages of the General Assembly, as proposed in the draft resolution. Several delegations suggested that the draft resolution was discriminatory with regard to those staff members whose mother tongue was neither a working language nor an official language and would put a premium on linguistic ability, if not applied with flexibility. It was also stated that it would not be fair to make promotion absolutely conditional on knowledge of a second working or even official language, unless all staff members were given equal opportunity to acquire such knowledge if they did not already possess it. One delegation urged that the implications of the proposal of the common system of conditions of employment in the

<sup>27</sup>G A (XXII), Annexes, a.i. 82, A/7001, para. 15.  
<sup>28</sup>*Ibid.*, paras. 17-19.

<sup>29</sup>G A (XXIII), Annexes, a.i. 81, A/7334, annex III.  
<sup>30</sup>*Ibid.*, A/7472, paras. 16-18.

United Nations family should be carefully considered. It was generally agreed that the possession of a language proficiency certificate issued after examination by the teaching staff of the Secretariat would be a proper proof of the knowledge of the second language. Several delegations considered that the text of the proposals was unduly rigid and would restrict the Secretary-General's discretion and possibly interfere in matters which were within his exclusive competence under the Charter of the United Nations.<sup>31</sup>

49. After several amendments designed to reflect the views of the delegations participating in the debate, the draft resolution was adopted unanimously by the Fifth Committee and submitted to the General Assembly, which adopted it on 21 December 1968 as resolution 2480 B (XXIII). In it, the Assembly requested the Secretary-General, with a view to ensuring a linguistic balance in the Secretariat, to establish as an acceptable minimum requirement of recruitment, from 1 January 1970, the ability to use one of the working languages of the Secretariat or, in the case of recruitment for a section of the Secretariat serving a particular organ, to use one of the working languages of that organ. In the latter case, staff members would not be granted a permanent appointment or an extension of their fixed-term appointment beyond two years until they could work in one of the working languages of the Secretariat. The resolution further prescribed that from 1 January 1972 promotions of staff in the Professional, Principal Officer and Director categories subject to geographical distribution would normally be conditional on adequate and confirmed knowledge of a second official language of the General Assembly, namely, Chinese, English, French, Russian or Spanish; nevertheless, the Secretary-General could authorize the promotion of the staff members specified above who did not fulfill that condition if he deemed it necessary for the proper functioning of the Secretariat. Knowledge of a second language, as confirmed by the obtainment of the language proficiency certificate as awarded by the United Nations, namely, by boards consisting of language teachers, would also permit more rapid passage through the steps within each grade for the above-mentioned staff, with the interval between steps being ten months instead of twelve; a proportionate reduction would be applied in grades where the interval between each step was more than twelve months. The resolution also urged the Secretary-General to take all the necessary steps to enable all the staff members specified above, who so requested, to take language courses and to ensure that modern teaching methods were used as widely as possible. Finally, it provided that the application of the language bonus established by resolution 2359 B (XXII) would remain in suspense pending a decision to be taken by the Assembly in 1973 after receiving a report by the Secretary-General on the implementation of the resolution.

50. At the twenty-fourth session of the General Assembly, during the debate in the Fifth Committee, a number of delegations commended the Secretary-General on the steps taken, in accordance with General Assembly resolution 2480 B (XXIII), to expand the language training programme conducted by the Secretariat, and expressed the hope that further progress would be made in ensuring a more equitable use of the working language of the Organization. Several delegations, concerned that the requirements of that resolution might be discriminatory with regard to those whose mother tongue was neither a working nor an official language,

urged that further study be given to the possibility of using bonuses and other incentives to language study.<sup>32</sup>

51. In its resolution 2539(XXIV), of 11 December 1969, the General Assembly requested the Secretary-General to continue his efforts to achieve a better linguistic balance within the Secretariat.

**\*\* (iv) Other suggested means**

**\*\*3. THE PROHIBITION OF DISTINCTION AS TO RACE, SEX OR RELIGION<sup>33</sup>**

**B. Appointment of the staff**

**1. AUTHORITY TO APPOINT THE STAFF**

**\*\*a. In general**

**b. Staff of special organs**

**\*\* (i) The Secretariat of the Military Staff Committee**

**\*\* (ii) The Staff of the Office of the United Nations High Commissioner for Refugees**

**\*\* (iii) Staff of the United Nations Relief and Works Agency for Palestine Refugees in the Near East<sup>34</sup>**

**\*\* (iv) Staff of the United Nations Korean Reconstruction Agency**

**\*\* (v) United Nations Children's Fund**

**(vi) United Nations Institute for Training and Research**

52. By a memorandum dated 22 December 1969 to the Executive Director of the United Nations Institute for Training and Research (UNITAR), the Secretary-General agreed to a proposal of the Director concerning the appointment of fellows for short periods to carry out UNITAR programmes.

53. UNITAR fellows would be appointed under the United Nations Staff Regulations, with a status assimilated to that of consultants, within the meaning of paragraph 6 of Annex I to the Regulations. During their tenure, they would be officials of the United Nations in accordance with Article 105 of the Charter and Article V of the UNITAR Statute. Their appointments would be subject to special terms and conditions of employment, including separate salary rates, to be determined by the Executive Director of UNITAR in agreement with the Secretary-General, as contemplated by Article V of the UNITAR Statute. The fellows would be given letters of award specifying their conditions of employment. They would be paid a monthly stipend. In addition, they would be entitled to annual leave, sick leave and compensation in the event of death, injury or illness attributable to the performance of services on behalf of the Institute. UNITAR fellows would be excluded from participation in the United Nations Joint Staff Pension Fund.

<sup>32</sup>G A (XXIV), Annexes, a.i. 83, A/7851, para. 8.

<sup>33</sup>See this *Supplement*, under Article 8.

<sup>34</sup>The independent and exclusive authority of the Commissioner-General of UNRWA with regard to the appointment, transfer and promotion of its staff was the subject of a legal opinion dated 11 June 1968. See the *United Nations Juridical Yearbook*, 1968, p. 210.

<sup>31</sup>*Ibid.*, para. 19.

- \*\* (vii) *United Nations Conference on Trade and Development*
- \*\* (viii) *United Nations Development Programme*
- \*\* (ix) *United Nations Force in the Congo*
- \*\* (x) *United Nations Force in Cyprus*
- \*\* (xi) *United Nations Industrial Development Organization*
- (xii) *Joint Inspection Unit*

54. By its resolution 2150(XXI) of 4 November 1966, the General Assembly approved the recommendation of the *Ad Hoc* Committee of Experts to Examine the Finances of the United Nations and the Specialized Agencies<sup>35</sup> regarding the establishment of an inspection unit responsible for maintaining supervision over the management of the different services from both the administrative and the financial points of view.

55. The eight inspectors would be chosen from among members of national supervisory or inspection bodies or from among persons of similar competence by reason of their special experience in national or international administration. The President of the General Assembly would draw up, with due regard to equitable geographical distribution, a list of Member States which would be requested to nominate candidates.<sup>36</sup> The Secretary-General would select the inspectors, in consultation with the other members of the Administrative Committee on Co-ordination (ACC) and subsequently appoint them initially for a period of four years. The inspectors would be barred from appointment to any post in the secretariats of the organizations of the United Nations family until at least three years after the completion of their terms of office.

56. In its resolution 1280(XLIII) of 4 August 1967, the Economic and Social Council, noting General Assembly resolution 2150(XXI) and the report of the *Ad Hoc* Committee of Experts,<sup>37</sup> as well as the reports of the Administrative Committee on Co-ordination (ACC),<sup>38</sup> the Committee for Programme and Co-ordination (CPC),<sup>39</sup> the Advisory Committee on Administrative and Budgetary Questions (ACABQ),<sup>40</sup> and the Joint Meeting of ACC and CPC,<sup>41</sup> which further analysed the conditions of appointment that would be appropriate for the inspectors, recommended to the Secretary-General and to the executive heads of the specialized agencies that they take such action as might be needed to enable the Joint Inspection Unit to begin work on 1 January 1968.

57. Following the adoption of this resolution, the Secretary-General appointed the inspectors in accordance with the procedure laid down by the General

Assembly. The inspectors were given letters of appointment which, among other things, stated that they would have the status of independent consultants and would not be considered in any respect as being staff members of the United Nations. An annex to the letter of appointment contained the conditions of service of the inspectors other than emoluments. Moreover, the inspectors were not to accept any other employment during their term of office. They would receive emoluments equivalent to those received at the top step of the Director (D-2) level. Leave, insurance and subsistence per diem arrangements would be comparable to those for international staff. The inspectors would not be eligible for participation in the United Nations Joint Staff Pension Fund (UNJSPF).

## \*\*2. METHODS OF RECRUITMENT

### \*\*3. THE NATURE OF THE RELATIONSHIP BETWEEN THE ORGANIZATION AND THE STAFF MEMBER

#### \*\*4. TYPES OF APPOINTMENTS<sup>42</sup>

### C. Conditions of service

#### \*\*1. AUTHORITY RESPONSIBLE FOR DETERMINING CONDITIONS OF SERVICE

### 2. ENTITLEMENTS OF THE STAFF

#### a. *In active service*

58. The broad-scale review of the principles underlying the United Nations salary system, undertaken by the International Civil Service Advisory Board (ICSAB) in 1966 and resumed in 1967, led the Board to the formulation of new methods for fixing the salaries of staff in the Professional and higher categories.

59. In putting forward its proposals,<sup>43</sup> the Board observed that the international civil service had been subject to dynamic growth in programmes, membership and diversity of personnel required. The Board at the same time defined two considerations of fundamental importance to the structure of the remuneration system: (a) the level of over-all remuneration must be kept high enough to attract and retain staff from all Member States, including those with the highest salary levels in their own national services; and (b) the real value of the total remuneration, that is, its actual purchasing power, should, so far as possible, be the same at all duty stations.

60. The Board recommended that, since the recruitment of the professional personnel required by the international organizations encountered competition not only from national civil services but also from the growing world market for the skills of such personnel, the United Nations salary rates should be set "on the basis of what may broadly be called 'world market rates' for the required skills". A review of the "world market rates", covering both home civil services and various expatriate services, should be conducted once every five years. Adjustments in salary in the intervening years between major reviews might be determined through the use of an international salary index constructed on the

<sup>35</sup>G A (XXI), Annexes, a.i. 80, A/6343, para. 67.

<sup>36</sup>The first list to be drawn up was comprised of the following Member States: France, India, Mexico, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Yugoslavia.

<sup>37</sup>G A (XXI), Annexes, a.i. 80, A/6343.

<sup>38</sup>E S C (XLIII), a.i. 17, E/4337, paras. 122-125.

<sup>39</sup>*Ibid.*, Supplement No. 9A.

<sup>40</sup>*Ibid.*, Annexes, a.i. 19, E/4401.

<sup>41</sup>*Ibid.*, a.i. 17, E/4404.

<sup>42</sup>The Secretary-General's authority and duty under Article 101 to determine types of appointment were cited in a legal opinion dated 17 July 1969. See *United Nations Juridical Yearbook*, 1969, p. 228.

<sup>43</sup>G A (XXIV), Annexes, a.i. 83, A/C.5/1240, annexes I and II.

basis of salary movements in national civil services of the host countries of the United Nations and related agencies.

61. In its resolution 2485(XXIII), the General Assembly approved revised salary scales for staff in the Professional and higher categories with effect from 1 January 1969. The new scales, which represented an increase of 5 per cent over those of January 1966, had been recommended by ICSAB as an interim adjustment pending the next comprehensive review of these salaries in 1970. The new scales also incorporated one class of post adjustment so as to reduce the proportion of remuneration payable in the form of non-pensionable cost-of-living differentials.

62. A separate resolution (2486(XXIII)) was adopted by the Assembly on the methods of establishing salaries of international civil servants. The resolution had grown out of the Fifth Committee's discussion of the proposed interim salary adjustment in the course of which questions were raised about the concept of "world market rates" which had been put forward by ICSAB as an alternative to the current method of setting the salary scales by reference to the highest national civil service salaries, with special account being taken of the additional factor of expatriation. Under the resolution, the Board was requested to include in the report on its 1969 session information on the progress made in its review of the principles of the United Nations salary system and, more particularly, on the study of world market rates. The Secretary-General was requested to circulate the Board's report as a document of the Assembly's twenty-fourth session.

63. In accordance with resolution 2486(XXIII), the Secretary-General transmitted to the Assembly, at its twenty-fourth session, a report<sup>44</sup> of the International Civil Service Advisory Board (ICSAB), setting out its conclusions on the review of the principles underlying the salaries for the international civil service. In its report, the Board concluded that the concept of establishing those salaries on the basis of a survey of world market rates was not capable of practical application at the time. It was therefore of the view that it would be unwise to discontinue the system currently in operation, which was derived from the principle that, in order for the United Nations to be able to recruit staff from all countries, it must set their remuneration on the basis of the salaries of the highest-paid national civil servants adjusted for the factor of expatriation. In reaching that conclusion, the Board made it clear that it was not implying indefinite endorsement of the "one-country" principle.

64. On the recommendation of the Fifth Committee, the Assembly, by resolution 2541(XXIV), took note with appreciation of the Board's report and requested the Secretary-General to keep it informed of the progress made by the Board in its examination of the subject.

65. As regards other benefits, the Assembly, by resolution 2481 A (XXIII), raised the maximum amount of the education grant payable in respect of children of staff members serving away from their home country to \$1,000 per school year for each child. The grant had been established at the maximum of \$700 by General Assembly resolution 2121(XX) of 1965, pending a review of its terms and conditions by the International Civil Service Advisory Board (ICSAB). On completion

of its review in 1968, the Board recommended that: (a) the grant should be equal to 75 per cent of the cost of board and tuition, subject to a maximum of \$1,000 a year for each child; (b) the allowance for boarding payable within the grant when a child attended a school away from home which did not provide board should be raised from \$400 to \$500; and (c) the age limit of twenty-one should be superseded by a provision under which the grant would be payable up to four years of full-time attendance at a university or equivalent educational institution.<sup>45</sup> The last recommendation, which was not endorsed by the Advisory Committee on Administrative and Budgetary Questions,<sup>46</sup> was not adopted.

66. As noted in paragraph 42-45 above, the General Assembly, in its resolution 2359 B (XXII), invited the Secretary-General to take steps to ensure a linguistic balance within the Secretariat, including the early introduction of a bonus for Professional staff who used two working languages, on the understanding that the bonus system would not be implemented before 1969 so that the Assembly could consider a report by the Secretary-General on the question at its twenty-third session.

67. In resolution 2480 B (XXIII), of 21 December 1968, the General Assembly decided that adequate and confirmed knowledge of a second language would permit more rapid passage through the steps within each grade, from P-1 to D-2 inclusive, for staff subject to geographical distribution, and the interval between steps was established at ten months instead of twelve; a reduction by the same proportion would be applied for grades where the interval between each step was at the time more than twelve months. The Assembly also decided that knowledge of a second language, defined as the understanding of the written and the spoken language, would be confirmed by the obtaining of the language proficiency certificate as awarded by the United Nations, namely, by boards consisting of language teachers. The second language would be one of the official languages listed in rule 51 of the rules of procedure of the General Assembly (i.e., Chinese, English, French, Russian and Spanish). Finally, the Assembly decided that the application of the language bonus established by resolution 2359 B (XXII) would remain in suspense pending a decision to be taken by the Assembly at its twenty-eighth session after receiving a report by the Secretary-General on the implementation of that resolution.

68. At its twenty-first session, the General Assembly authorized the Secretary-General to refund to staff members of United States citizenship part of the United States social security tax which they were required to pay under the federal old-age, survivors and disability insurance system. The amount to be refunded would be the difference between the amount which the staff member was required to pay as an employee of the United Nations and the amount he would have paid as an employee of a taxable employer. Refunds were made in respect of the social security taxes due for 1966 and subsequent years.<sup>47</sup>

69. In accordance with the above decision, the existing procedure for the reimbursement of United States federal, state and local income taxes was extended to the reimbursement of the United States social security tax with effect from 1 January 1967.

<sup>45</sup>G A (XXIII), Annexes, a.i. 81, A/C.5/1170, annex, para. 69.

<sup>46</sup>*Ibid.*, A/7295, para. 26.

<sup>47</sup>G A (XXI), Annexes, a.i. 81, A/6605, para. 35.

<sup>44</sup>G A (XXIV), Annexes, a.i. 83, A/C.5/1240.

b. *After service*(i) *Pensions*

70. By resolution 2191(XXI), of 15 December 1966, the General Assembly, on the recommendation of the United Nations Joint Staff Pension Board, approved a series of amendments to the Regulations of the United Nations Joint Staff Pension Fund with the general effect set out in paragraphs 71 and 72 below.

71. The scheme of associate participation in the Fund, which had been in effect since 1958, was replaced from 1 January 1967 by a modified form of full participation applying uniformly to all staff engaged after that date on appointments of one year or longer or who had completed one year of service on shorter term appointments. The contributions of participants to the Fund remained at 7 per cent of pensionable remuneration and the benefit system continued unchanged, except that eligibility for retirement pensions, for staff appointed on or after 1 January 1967, became conditional upon contributory service of at least five years. At the same time, transitional arrangements were approved which provided for associate participants currently in service to continue in that status—subject to their employment after 31 December 1966 being continuous—until, under the existing provisions, they became full participants. The right to validate non-pensionable service, within the time-limits prescribed in the Fund Regulations, was maintained.

72. The requirement that all participants and associate participants meet the medical standards of the Fund, as a condition of entitlement to disability and death benefits during the first five years of contributory service, was eliminated. All staff up to then placed in medical class II thus became immediately eligible for all benefits provided by the Fund. A staff member, however, who refused to undergo the necessary medical examination, remained subject to the five-year limitation mentioned above.

73. By resolution 2524(XXIV), the Assembly took several measures concerning the rate of accumulation of benefits. It decided that the standard annual rate for a retirement benefit would be obtained by multiplying the number of years of the participant's contributory service, not exceeding thirty, by 1/50 of his final average remuneration; and the minimum annual rate for a retirement benefit by multiplying the number of years of the participant's contributory service, not exceeding ten, by the smaller of \$180 or 1/30 of his final average remuneration. It also established a procedure for determining such benefits accrued before 1 January 1970. Finally, the Assembly approved several amendments to the Regulations of the United Nations Joint Staff Pension Fund.

74. By resolution 2367(XXII), the Assembly approved several amendments to the Pension Scheme Regulations for members of the International Court of Justice relating to increases in a widow's pension and a former member's pension, respectively.

(ii) *Other after-service entitlements*

75. By a decision adopted at its twenty-first session, the General Assembly approved a proposal by the Secretary-General to extend, with effect from 1 January 1967, the existing health insurance schemes to staff members and their dependants or survivors upon retirement or on separation due to disability or death.

76. The extended insurance was made available to any staff member leaving the service of the United Nations

at the age of retirement or because of disability who, at the time of separation, had been a contributory participant in a United Nations health insurance plan for a specified period. In the case of retirement, the qualifying period was ten years and, in the case of separation for disability or death, three years. The same conditions of eligibility initially applied also to former staff members who had left the service before the institution of the new scheme. In all cases, coverage was available only to those who were in receipt of periodic benefits from the United Nations Joint Staff Pension Fund or under the rules governing compensation for service-incurred death, injury or illness. Dependants or survivors of a former staff member were entitled to coverage under the scheme, provided they had been covered by a United Nations health insurance plan at the time the staff member had left the Organization and had had the necessary qualifying period of participation. The arrangements were optional and based on the cost sharing principle formulated in General Assembly resolution 1095(XI).

**\*\*3. RESPONSIBILITIES OF STAFF MEMBERS****D. Disciplinary measures**

77. With effect from 1 January 1969, Staff Rules 110.1 (Joint Disciplinary Committee), 110.3 (Disciplinary Measures) and 110.5 (Joint Disciplinary Committee Procedure) were amended to include references to the Joint Disciplinary Committee established at the United Nations Office at Geneva.

78. In its Judgement No. 130,<sup>48</sup> the Administrative Tribunal reviewed a decision imposing disciplinary measures, without referral to a Joint Disciplinary Committee, upon a staff member serving at a field office. The decision had been taken in conformity with Staff Rule 110.3, which prescribed referral to a Joint Disciplinary Committee only in the case of staff serving at Headquarters or at the United Nations Office at Geneva.

79. The Tribunal declared the decision ill-founded on the grounds that the requirements of due process had not been observed. The Tribunal said that such requirements were particularly important in the case of staff members who, under the Staff Rules, were not assured of the guarantees provided by referral to a Joint Disciplinary Committee, and in that connexion expressed the view that, whatever might be the historical reasons which limited the procedure before the Joint Disciplinary Committee to staff members serving at Headquarters or at the Geneva Office, there was need for an equivalent procedure for other staff members in order to afford equal protection to the whole staff.

**E. Recourse available to staff members****1. IN GENERAL**

80. Judgement No. 105<sup>49</sup> of the Administrative Tribunal concerned the question of time limits applicable in appeal procedures involving staff members serving away from Headquarters and the United Nations Office at Geneva. In this judgement, the Tribunal reviewed the decision taken by the Joint Appeals Board at Headquarters in the case of a staff member employed at a field office who had lodged an appeal against the decision to terminate her appointment. The Board had decided not

<sup>48</sup>AT/DEC/130 (May 1969).

<sup>49</sup>AT/DEC/105 (April 1967).

to entertain the appeal because it had been submitted after the expiry of the time limits laid down in Staff Rule 111.3. The Applicant subsequently requested the Tribunal to rescind the decision of the Board.

81. The Tribunal concluded that Staff Rule 111.3 regarding time limits applied only to staff members at Headquarters. The rules were silent about time limits for appeals procedures to be followed by staff members working away from Headquarters and this was a serious lacuna in the rules. Accordingly, the Tribunal considered the decision of the Board not to entertain the appeal as unacceptable.

82. With effect from 1 January 1969, amendments were introduced in Staff Rules 111.3 (Procedures of the Joint Appeals Board) and 111.4 (Appeals in Offices away from Headquarters), concerning mostly the modification of time limits, particularly as regards staff members serving away from Headquarters and the United Nations Office at Geneva. These amendments affected the time limits applicable to the appeal to the Secretary-General (which prior to 1955 required to be lodged before the Assistant Secretary-General for Administrative and Financial Services), recourse to the Joint Appeals Board and recourse to the Tribunal.

**\*\*2. APPEAL TO THE SECRETARY-GENERAL**

**\*\*3. THE JOINT APPEALS BOARD**

**\*\*4. THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS**

**F. Organization of the Secretariat**

**1. THE QUESTION OF THE AUTHORITY TO DETERMINE THE ORGANIZATION OF THE SECRETARIAT**

**\*\*a. In general**

**b. Some illustrative cases**

**\*\* (i) The United Nations Field Service**

**\*\* (ii) The Technical Assistance Administration**

**(iii) Reorganization of the Secretariat**

83. In a note submitted to the Fifth Committee during the twenty-second session of the General Assembly<sup>50</sup>, the Secretary-General observed that the responsibilities of the Secretariat had greatly expanded since its previous reorganization in 1955. The time was therefore opportune for a new look at its structure. It was his conclusion that, considering the difference in the level of responsibility attached to the existing posts of the senior officials of the United Nations and to the position of these officials in relation to their opposite numbers in the specialized agencies, it would be appropriate to reintroduce the concept of two levels in the top echelon.

84. The structure of the Secretariat would otherwise be kept unchanged except in regard to the combination of the posts of Controller and Director of Personnel. One official at the higher level would be in charge of the joint offices, assisted by two officials at the lower level of the top echelon.

85. The eleven officials of the higher level, who would be designated Under-Secretaries-General, would include the Chef de Cabinet and Under-Secretary for General Assembly Affairs, the two Under-Secretaries for Special Political Affairs, the Under-Secretaries in charge of Finance and Management, Political and Security Council Affairs, Trusteeship and Non-Self-Governing Territories, Economic and Social Affairs and the Office of Conference Services, as well as the Secretary-General of the United Nations Conference on Trade and Development (UNCTAD), the Executive Director of the United Nations Industrial Development Organization (UNIDO) and the Director-General of the United Nations Office at Geneva.

86. The Secretary-General felt that, of the heads of offices of subsidiary organs which were financed mainly by voluntary contributions, the Executive Director of the United Nations Children's Fund (UNICEF) could justifiably be placed at the higher level, but noted that the matter was primarily one for the Executive Board of that organ to decide.

87. As regards the Administrator of the United Nations Development Programme (UNDP), the Secretary-General considered that, in view of the level of his broad responsibilities, both substantive and financial, his post should be equated with that of the head of a major specialized agency, the other senior officials in UNDP being given appropriate ranks by the Administrator in consultation with the Secretary-General.

88. The Secretary-General also proposed to appoint a small team of experts to review other important aspects of the organization of the Secretariat, including the division of responsibilities of the various units and their interrelationship, and to make its recommendations to him.

89. The Fifth Committee decided to take note of the proposals for the reorganization of the top echelon in the Secretariat and to recommend a draft resolution on them to the General Assembly for approval. By its resolution 2369 (XXII), adopted on the basis of the recommendation of the Fifth Committee, the General Assembly decided to amend, with effect from 1 January 1968, the text of Staff Regulations 1.10 (Duties, obligations and privileges), 3.4 (Salaries and related allowances), 4.5 (Appointment and promotion) and paragraphs 1 and 2 of Annex I (concerning salary and allowances of staff at the top echelon in the Secretariat).

90. In January 1968, the Secretary-General designated as Under-Secretaries-General the holders of all the eleven posts indicated above. The post of Under-Secretary-General in charge of Finance and Management would be filled later in the year. The Governing Council of UNDP endorsed the arrangements for implementation of the Secretary-General's proposals with respect to the Administrator of UNDP. The Governing Council also approved the proposal that, for the duration of its existence, the post of Co-Administrator should have a status equivalent to that of a senior deputy executive head of a major specialized agency and should be assimilated to the new level of Under-Secretary-General. At the same time the Governing Council authorized the Administrator to establish the level of the Assistant Administrators as equivalent to that of Assistant Director-General of a major specialized agency, that arrangement to be subject to review by a committee of experts.

91. In April 1968, the Secretary-General announced the appointment of the seven members of the Committee of Experts on the Reorganization of the Secretariat.

<sup>50</sup>G A (XXII), Annexes, a.i. 74, A/C.5/1128.

92. The first report of the Committee<sup>51</sup> dealt, among other matters, with questions relating to the top echelon and to personnel questions. In a note transmitting the report to the General Assembly at its twenty-third session<sup>52</sup>, the Secretary-General said he would confine his observations to certain specific questions, including that of the grading of posts in the top echelon. In that regard, he noted that, while the Committee had not supported the upgrading of the post of Executive Secretary of each of the four regional economic commissions (ECA, ECAFE, ECE and ECLA) to the level of Under-Secretary-General, it had made several suggestions for increasing the authority and scope of the work of the regional economic commissions. He concluded therefore that the action of the Committee was not due to lack of appreciation for the work done by the United Nations at the regional level.

93. The Secretary-General also noted that the Committee had not reached agreement on his proposals to raise the posts of the Legal Counsel and the United Nations High Commissioner for Refugees to the level of Under-Secretary-General<sup>53</sup>. Having given careful consideration to the observations of the Committee in that regard, as well as to the special responsibilities pertaining to those two posts, the Secretary-General had decided to add them to the list of positions at the Under-Secretary-General level. He recalled that the position of Assistant Secretary-General for Legal Affairs had been one of the posts in the top echelon when there were only eight of them. He also recalled that the General Assembly had concluded, in establishing the post of United Nations High Commissioner for Refugees, that it should be in the highest category of the top echelon.

94. The Secretary-General added that he had consulted the Administrator of the United Nations Devel-

opment Programme (UNDP) and that UNDP would accept the recommendations of the Committee. Specifically, the top echelon of UNDP would consist of an Administrator (at the level of Head of a major specialized agency), a Deputy Administrator (at the Under-Secretary-General level) and no more than three Assistant Administrators (at the level of Assistant Director-General of a major specialized agency). The post of Associate Administrator would not be continued in 1969. The post of Administrator would be filled by the Secretary-General in consultation with the Governing Council of UNDP and those of Deputy Administrator and Assistant Administrator by the Administrator of UNDP in consultation with the Secretary-General.

95. The Secretary-General also mentioned that the new Under-Secretary-General for Administration and Management had been appointed in October 1968.

96. Although the report of the Committee on the Reorganization of the Secretariat was mentioned in the debates of the Fifth Committee during the twenty-third session of the General Assembly, notably in connexion with agenda item 75, "Pattern of Conferences",<sup>54</sup> no action was taken by the Assembly in its regard.

97. In his report on the implementation of the recommendations of the Committee on the Reorganization of the Secretariat<sup>55</sup> submitted to the General Assembly at its twenty-fourth session, in 1969, the Secretary-General said that, since he had received the recommendations of the Committee, the only change in the classification of a post in the top echelon had been that of the Executive Director of the World Food Programme, which had been upgraded from the level of Assistant Secretary-General to that of Under-Secretary-General.

<sup>51</sup>G A (XXIII); Annexes, addendum to a.i. 74, A/7359, annex.

<sup>52</sup>*Ibid.*, A/7359.

<sup>53</sup>G A (XXII), Annexes, a.i. 74, A/C.5/1128.

<sup>54</sup>G A (XXIII), Annexes, a.i. 75, A/7475, paras. 1-4, 7, 13.

<sup>55</sup>G A (XXIV), Annexes, a.i. 74, A/7796.

**Chapter XVI**  
**MISCELLANEOUS PROVISIONS**