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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. Article 101 provides the cornerstone of the United Nations' framework for the recruitment and employment of its staff; the authority of the Secretary-General to administer, and the authority of the General Assembly to regulate. It is through this hermeneutic principle that the present study examines the questions that arose regarding Article 101 during the time period of 1995 – 1999.
2. The format of this study is an extension of the structure of the previous studies of Article 101, largely mirroring their format, headings, and sub-headings to allow for ease of reference.¹ However, some subheadings have undergone minor changes to account for the specific challenges the United Nations faced during this time period.
3. The content of this study has been developed in a way to best allow the reader to not only understand what changes occurred during this period, but also how and why. For that purpose, the majority of the issues are approached in a chronological manner by sub-heading to best facilitate the readers understanding of the development of a particular issue. Further, primary source material has been added to the footnotes of this study for ease of reference, and to allow the reader better insight into the actions of the United Nations Organs from 1995 through 1999.

¹ See Repertory and Supplements Nos. 1-6.

I. GENERAL SURVEY

4. The main issues that arose in 1995 were related to the conditions of service of the United Nations staff members,² improvement of the status of women in the Secretariat,³ and the reform of the internal justice system.⁴ In 1996, the primary issues continued to be those related to the conditions of service of the United Nations staff members,⁵ as well as the introduction of a system of performance awards and bonuses,⁶ and the legal implications of the reform of the internal justice system of the United Nations Secretariat.⁷ In 1997, the main focus was on issues related to the Secretary-General's proposals for UN reform, the establishment of the post of the Deputy Secretary-General,⁸ matters concerning the conditions of service of United Nations staff,⁹ and the reform of the internal justice system.¹⁰ In 1998, the issues under consideration consisted of human resources management reform,¹¹ amendment of the Staff Rules and Regulations, the status of women in the Secretariat,¹² and issues related to the conditions of service of the United Nations staff.¹³ In 1999, the primary emphasis continued to be on issues related to the Secretary-General's programme for reform,¹⁴ the conditions of service of United Nations staff,¹⁵ amendments to the International Civil Service Commission (ICSC) statute,¹⁶ and the improvement of the status of women in the Secretariat.¹⁷

² G A resolution 49/223, 50/208 and 50/216, G A decision 50/469, A/50/30, A/50/7/Add.2, A/50/784, A/C.5/50/18, A/50/7/Add.11.

³ G A resolution 49/167 and 50/164, ESC resolution 1995/28.

⁴ G A resolution 50/54, G A decision 49/491, A/C.5.49/60, A/C.5/49/60/Add.2 & Corr. 1, A/C.5/50/2, A/C.5/50/2/Add.1, A/50/5/Add.8.

⁵ G A resolution 50/219 and 51/216, G A decision 50/504, A/51/30, ACC/1996/14, A/C.5/51/25& Corr.1, A/C.5/51/24.

⁶ A/50/30.

⁷ G A resolution 50/240.

⁸ G A resolution 52/12 B and 52/220, A/C.5/52/36, A/52/7/Add.1.

⁹ G A resolution 51/218 E, 52/216, 52/217, and 52/218, A/C.5/52/28, A/52/7/Add.8.

¹⁰ G A resolution 52/166, A/52/142, A/52/142/Add.1.

¹¹ A/53/342, A/53/414, A/53/691.

¹² G A resolution 53/119, E/CN.6/1998/3, ESC resolution 1998/11.

¹³ G A resolution 53/209, A/C.5/53/4, ACC/1998/20, A/C.5/53/11, A/53/485/Add.1.

¹⁴ G A resolution 52/12, 52/12B, and 53/242, A/51/950.

¹⁵ G A resolution 54/238, A/54/483.

¹⁶ G A resolution 54/238, A/54/238, ACC/1999/4, A/C.5/54/24.

¹⁷ G A resolution 54/139, E/CN.6/1999/5.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Principles Governing the Selection of Staff, Conditions of Service and Organization of the Secretariat

1. THE PRINCIPLE OF GEOGRAPHICAL DISTRIBUTION

(a) In general

5. During the period under review, the General Assembly continued to grant considerable attention to ensuring a proper geographical distribution of the staff members in the Secretariat. In that context, the General Assembly requested the Secretary-General to ensure that the highest standards of efficiency, competence and integrity serve as the paramount consideration in the employment of staff, with due regard to the principle of equitable geographical distribution, in accordance with Article 101, paragraph 3 of the Charter of the United Nations.¹⁸ Further, the General Assembly urged the Secretary-General, when making appointments to posts subject to geographical distribution, to continue and intensify his efforts to ensure that all Member States (in particular unrepresented and under-represented Member States) are adequately represented in the Secretariat, bearing in mind the need to increase the number of staff recruited from Member States that were then below the mid-point of their desirable ranges.¹⁹ During the period under review, the General Assembly also stated that the national competitive examination programme was a useful tool for selecting the best qualified candidates from inadequately represented Member States.²⁰

(b) Application of the principle of geographical distribution

6. Initiated by a request from the United Nations Educational, Scientific, and Cultural Organization (UNESCO), the Joint Inspection Unit (JIU) undertook an examination of the different methods used when calculating the equitable distribution of staff members within the various organizations of the United Nations common system.²¹ In 1996, the JIU issued a report

¹⁸ G A resolution 53/221.

¹⁹ Ibid.

²⁰ Ibid.

²¹ JIU/REP/96/7.

on their findings, and made five primary recommendations concerning the calculation of equitable distribution.²²

7. The JIU recommended: (1) a focus on the creation of a fairer interpretation (and consequently, application) of “the principle of geographical equity in the staffing of the organizations”,²³ (2) that a post at a grade level in one category could not compare to a post at a different grade level in that same category, much less a different category,²⁴ (3) that voluntary contributions from Member States should not affect the recruitment of nationals from a particular country or region that are recruited to perform the duties necessary to enact a project or programme that was financed by the voluntary contributions,²⁵ (4) that the Secretariats of all international organizations should be wary of accepting nationals “free-of-charge”, especially if the task could be fulfilled by a full-time or part-time international civil servant (to avoid over-representation),²⁶ and (5) the creation of a new factor: “[t]ime a post is occupied” by a staff member of a given nationality.²⁷ Further, the JIU felt it would be required to perform a follow-up

²² Ibid.

²³ Ibid. The first recommendation states that “in the interest of a fairer interpretation and application of the principle of geographical equity in the staffing of the organizations, [...] current use of the basic principles such as membership and contributions should be at least allocated on a fixed basis. More active consideration should be given to demographic profile and post level weighting principles. In the case where applying the principles described above for each [M]ember State raises technical or statistical difficulties, more emphasis should be given to regional and subregional grouping. At the very least, high-level managerial posts should be distributed equally among the geographical regions of the world, as determined by each organization. Given the dwindling number of posts at the top of the administrative pyramid, the application of a principle of rotation, particularly in the higher categories, is desirable [...]”

²⁴ Ibid. The second recommendation states that “[b]earing in mind the considerations and recommendations above, it seems obvious that a post at one grade in a given category cannot be compared to one at a different grade in that category, and far less to one in a different category. It is therefore desirable to adopt a principle of weighting, thereby assigning a certain coefficient to each grade in each category of post. The system currently applied in FAO [Food and Agriculture Organization of the United Nations] merits consideration, without prejudice to any other similar, equitable system [...]. An equitable system of grade weighting would rationalize the practice of high level appointments in large part, as already empirically applied within the United Nations organizations.”

²⁵ Ibid. The third recommendation states that: “to preserve the essential universality and objectivity [...] of international organizations, voluntary contributions from [M]ember States should not be accompanied by pressure or stipulations regarding the recruitment of nationals from a particular country or region, to carry out the projects or programmes financed out of such extra budgetary resources. [...]”

²⁶ Ibid. The fourth recommendation states that: “[i]n order to avoid [...] over-representation, the secretariats of international organizations should be [...] cautious in accepting nationals from any country ([M]ember State or not) provided “free-of-charge” who will perform tasks that would normally be assigned to staff recruited by the organizations themselves. Such an assignment may be considered an exceptional measure, only when a full -or part-time international civil servant is not justified by program implementation requirements.”

²⁷ Ibid. The fifth recommendation states that: “[t]he Inspectors wish to recommend the use of a factor of “time a post is occupied” by a staff member of a given nationality: instead of measuring the geographical distribution of posts year by year, post distribution should preferably be considered over a certain number of years. Over that period, it will have been possible for posts to be occupied by several staff members of different

study to develop viable methodology options for the construction of geographical distribution formulas.²⁸

8. During the 51st session of the General Assembly, the Secretary-General submitted his comments on the JIU report to the General Assembly.²⁹ Generally, the Secretary-General agreed with the inspectors regarding the use of reflecting on “audacious ideas” in order to prepare groundwork for further discussion.³⁰ The Secretary-General also concurred with the JIU’s emphasis on a system-wide coordination of efforts by all organizations that were part of the United Nations common system.³¹ Further, the Secretary-General approved of the final recommendation of the JIU that would provide a way to measure or quantify geographic distribution in smaller organizations. However, the Secretary-General believed that there could be some issues in the practice and implementation of that recommendation.³² The Secretary-General, additionally, supported the premise that voluntary contributions from Member States should not come with the pressure of stipulations regarding which nationalities were recruited with those funds.³³

9. On the other hand, there were instances where the Secretary-General did not concur with the recommendations of the JIU. For example, the JIU recommended a more active consideration of the demographic profile, but the Secretary-General took the stance that emphasis should be

nationalities. Geographical distribution thus measured over a certain period will give a truer indication of how the principle of equitable geographical distribution is really being applied [...].”

²⁸ See UN Yearbook 1996, p. 1327.

²⁹ A/51/705/Add.1.

³⁰ Ibid.

³¹ A/51/705/Add.1, para. 7 states that “[r]egarding the desirability of allocating on a fixed basis factors such as membership and contribution, the Secretary-General concurs with the Inspectors’ emphasis on the importance of a system-wide coordination of efforts to implement the principle of geographical distribution.”

³² Ibid., para. 21 states that “[t]he Secretary-General agrees with concerns expressed by the Inspectors and welcomes in principle the ideas put forward by them in this recommendation, which offers a measurable yardstick for implementation of the principle of geographical distribution in smaller organizations. However, it would appear that there may be some impediments to its translation into practice: not only do many staff members in smaller organizations have permanent appointments, but, under General Assembly resolution 37/126, staff members with a fixed-term appointment are entitled to consideration for a career appointment after five years of continuous good service, as explained in the report of the Secretary-General on the ratio between career and fixed-term appointments (A/C.5/51/34).”

³³ Ibid., para. 17 states that “[t]he Secretary-General fully supports the recommendation of the Joint Inspection Unit that voluntary contributions from Member States should not be accompanied by pressure or stipulation regarding the recruitment of nationals of a particular country or region. While the Secretariat should be fully accountable to donors for the use of their voluntary contributions, it will continue to negotiate with them concerning the implementation of projects and programmes financed out of such resources by personnel identified and appointed by the Secretariat after appropriate verification of qualifications.”

placed on raising the demographic factor to a level agreed upon by Member States.³⁴ Further, the Secretary-General believed that the use of a new post-weighting principle required both technical and political examination because a change to the existing system would include far-reaching modifications of quotas and desirable ranges.³⁵ Finally, the Secretary-General wished to seek further guidance from the General Assembly on the issues raised by the JIU.³⁶

10. Consideration of the JIU report continued through the 51st and 53rd sessions of the General Assembly, which each adopted a resolution on the matter. In 1997, the General Assembly adopted resolution 51/226³⁷ requesting the Secretary-General to continue to function within the same basic framework of recruitment laid out by the General Assembly and the United Nations Charter, but to further conduct targeted searches in order to recruit nationals from unrepresented or under-represented countries.³⁸ During the 53rd session of the General Assembly, resolution 53/221 was adopted.³⁹ In this resolution, the General Assembly noted that twenty-four Member States were completely unrepresented in the Secretariat, and ten more were under-represented as of 30 June 1998.⁴⁰ The General Assembly also noted that there had appeared to be a significant reduction in the number of postings that were subject to the

³⁴ Ibid., para. 8 states that “[c]oncerning the proposal by the Inspectors to give more active consideration to the demographic profile, the Secretary-General has noted in particular the recommendation to redistribute the weights of the various factors. The Secretary-General is of the view that consideration should be given to increasing the demographic factor, [...], to a level to be agreed upon by Member States.”

³⁵ Ibid., para. 13.

³⁶ Ibid.

³⁷ The General Assembly adopted resolution 51/226 on recommendation of the Fifth Committee.

³⁸ G A resolution 51/226. The General Assembly “1. [r]eaffirms that no post should be considered the exclusive preserve of any Member State or group of States, including at the highest level; 2. [r]ecognizes that the system of desirable ranges is the mechanism for the recruitment of staff in posts subject to geographical distribution, in accordance with Article 101, paragraph 3, of the Charter of the United Nations; 3. [r]equests the Secretary-General to take every available measure to ensure, at the senior and policymaking levels of the Secretariat, the equitable representation of Member States, in particular of developing countries and Member States with inadequate representation at those levels, in accordance with the relevant resolutions of the General Assembly, and to include relevant information thereon in future reports on the composition of the Secretariat; 4. [a]lso requests the Secretary-General, in this regard, to exercise flexibility in the application of desirable ranges in individual recruitment cases, bearing in mind all parts of the present resolution; 5. [f]urther requests the Secretary-General to ensure that the highest standards of efficiency, competence and integrity serve as the primary criteria in the recruitment of staff; 6. [r]equests the Secretary-General, while ensuring that the highest standards of efficiency, competence and integrity serve as the primary criteria in the recruitment of staff, to ensure also that the search for and the selection of candidates are conducted in accordance with the guiding principles of achieving equitable geographical distribution and providing equal opportunity for men and women to participate in any capacity and under conditions of equality in the work of the Secretariat; [...]; 8. [n]otes the efforts of the Secretary-General to conduct a targeted search for candidates from Member States that are unrepresented or under-represented and below the mid-point of their desirable ranges, and requests that he continue to expand these efforts.”

³⁹ G A resolution 53/221 was adopted on recommendation of the Fifth Committee.

⁴⁰ G A resolution 53/221, para. 1.

geographical distribution system at the P-2 and P-3 levels, and that such posts increased at the D-2 and Assistant Secretary-General levels.⁴¹ The Assembly further reiterated that no senior-level post should be monopolized by staff members of a single nationality, and that equitable distribution be strongly considered in the fulfilling of senior-level posts (especially in recruiting those from unrepresented and under-represented nations).⁴² The General Assembly concluded the period under review by reiterating its request to the Secretary-General to strengthen equitable geographic distribution and urging all unrepresented and under-represented Member States to take every effort in identifying qualified candidates for vacant positions.⁴³

(c) Status of women in the Secretariat

11. At the start of the period under review, the General Assembly adopted two resolutions that endorsed the Secretary-General's proposed plan of action for the improvement of the status of women in the Secretariat (1995-2000). These resolutions were 49/167 (specifically concerning the status of women) and 49/222 (concerning human resources management in general). Through these resolutions, the General Assembly urged the Secretary-General to fully implement his proposed plan and use the fulfillment of the plan as an indicator of manager performance.⁴⁴

12. In the Secretary-General's 1995 report on the status of women in the Secretariat,⁴⁵ the Secretary-General found an overall increase in the percentage of women in posts subject to geographic distribution. From 1989-1994, the percentage of women increased by 5.7 per cent (totaling 32.6 per cent) in that category.⁴⁶ In and above the D-1 level, there was a 2.8 per cent increase from 1993 to 1994 (totaling 15.1 per cent).⁴⁷ However, both of these marks fell short of the targets set by the General Assembly.⁴⁸

13. Subsequent to these findings, the Commission on the Status of Women (CSW) recommended a draft resolution to the Economic and Social Council (ESC).⁴⁹ The primary goal of this resolution was to urge the Secretary-General to make a more concerted effort to increase the number of female recruits to the Secretariat, and specifically target senior policy-level and

⁴¹ Ibid., para. 2.

⁴² Ibid., para. 7.

⁴³ Ibid., paras. 8, 10.

⁴⁴ E/CN.6/1995/7.

⁴⁵ Ibid.

⁴⁶ Ibid., para. 7.

⁴⁷ Ibid.

⁴⁸ 35 per cent for P-5 levels and below, and 25 per cent for the D-1 levels and above.

⁴⁹ See UN Yearbook 1995, p. 1413, E/1995/26 and E/CN.6/1995/14.

decision-making posts, as well as specialized agencies that were considerably below average in the recruitment of women.⁵⁰ The ESC adopted the proposed resolution in resolution 1995/28.⁵¹ Further, in this resolution the ESC requested that the Secretary-General take steps to develop comprehensive policies to prevent sexual harassment,⁵² as well as to increase the flexibility of the hiring practices of the Secretariat in order to eliminate discrimination (directly or indirectly) against staff members with family responsibilities.⁵³

14. Additionally, the Secretary-General issued a report⁵⁴ in which he advocated the inclusion of the Platform for Action⁵⁵ from the Fourth World Conference on Women. Further, the Secretary-General stated that he intended to pursue the objectives set by the General Assembly in regards to the status of women in the Secretariat, and believed that the General Assembly might want to extend the objective goal of resolution 49/167 (50 per cent men and women in posts subject to geographical distribution) to all other categories of posts.⁵⁶ The Secretary-General further stated that this new goal should apply to overall percentages, as well as percentages within the specific categories.⁵⁷

15. The General Assembly then adopted resolution 50/164, which requested the Secretary-General to fulfill the target he set in his above report for having women hold 50 per cent of all

⁵⁰ Ibid.

⁵¹ ESC resolution 1995/28, para. 5 urges the Secretary-General, “in accordance with the Charter of the United Nations and in a manner consistent with the plan of action, to accord greater priority to the recruitment and promotion of women in posts subject to geographical distribution, particularly in senior policy-level and decision-making posts and within those parts of the United Nations system and the specialized agencies where representation of women is considerably below the average, in order to achieve the goals set in General Assembly resolutions 45/125 and 45/239 C of an overall participation rate of 35 per cent by 1995 and, in posts at the D-1 level and above, of 25 per cent by 1995.”

⁵² Ibid., para. 11.

⁵³ Ibid., para. 6 states that such responsibilities “[include] consideration of such issues as spouse employment, job-sharing, flexible working hours, child-care arrangements, career-break schemes and access to training[.]”

⁵⁴ A/50/691.

⁵⁵ Ibid., indicates that the “Platform for Action regarding women in decision-making, in power structures and in managerial positions, to be applied at the national, regional and international levels.”

⁵⁶ See G A resolution 49/167.

⁵⁷ See Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995 (A/CONF.177/20). See also A/50/691 para 59, which states that “[t]he Secretary-General intends to vigorously pursue the achievement of the objectives set by the General Assembly with respect to the improvement of the status of women through the implementation of the strategic plan of action and the Platform for Action. To this end, the General Assembly may wish to consider extending the target of 50 per cent women and men in posts subject to geographical distribution by the year 2000, as set by the General Assembly in resolution 49/167, to all other categories of posts; namely, to posts with special language requirements as well as field mission and mission replacement posts, irrespective of the type or duration of the appointment, or of the series of Staff Rules under which an appointment is made. The percentage should apply both overall and within each category.”

managerial and decision-making positions by the year 2000,⁵⁸ and called on all Member States to aid the Secretariat by identifying more qualified female candidates and establishing national rosters of women candidates to be submitted to the Secretariat.⁵⁹ Additionally, the General Assembly expressed the Assembly's disappointment that the Secretary-General had yet to meet the goals set out for it by the General Assembly in previous resolutions⁶⁰ (35 per cent women overall and 25 per cent at the D-1 level and higher). Further, in this resolution the General Assembly mirrored ESC resolution 1995/28 in asking the Secretary-General to take steps to eliminate direct or indirect discrimination against staff members with family responsibilities.⁶¹

16. Pursuant to a decision of the Commission on the Status of Women, a medium-term plan was created at the end of 1995 for the promotion of women in the Secretariat. It was based on both the Beijing Declaration and the Platform for Action,⁶² centering on the critical areas identified in these documents.⁶³ This plan for 1996-2001 was then adopted by the ESC in resolution 1996/34. For the most part, the plan addressed activities targeting women, but also involved gender-responsive activities as a portion of mainstream programmes and projects.⁶⁴

17. 1996 saw the submission of two reports on the status of women from the Secretary-General. The first report⁶⁵ was delivered to the Commission on the Status of Women, which provided statistical data and developments that had taken place since June of 1995.⁶⁶ Included in this report, the Secretariat explained the issuance of two documents⁶⁷ to consolidate all of the Secretariat's policies on the Status of Women. The second report (that was submitted to the General Assembly)⁶⁸ contained updated statistics regarding the appointment of women to positions in the Secretariat, as well as an announcement stating that the initial goal of 35 per cent women in overall posts had been achieved, but that the next goal of 50 per cent men and women by the year 2000 was unrealistic due to the financial crisis the United Nations was experiencing

⁵⁸ G A resolution 50/164, para. 4.

⁵⁹ *Ibid.*, para. 11.

⁶⁰ G A resolutions 49/222A and 49/222B.

⁶¹ G A resolution 50/164, para. 6.

⁶² Adopted at the Fourth World Conference on Women.

⁶³ E/CN.6/1998/3. Critical areas included, but were not limited to, "information collection and database development; research and analysis; operational activities, including advisory services, technical assistance and training; and public outreach and information dissemination."

⁶⁴ *Ibid.*, para. 2.

⁶⁵ E/CN.6/1996/7.

⁶⁶ *See* UN Yearbook 1996, p. 1330.

⁶⁷ ST/SGB/282 entitled "Policies to achieve gender equality in the United Nations", and ST/AI/412 entitled "Special measures for the achievement of gender equality"

⁶⁸ A/51/304.

at that time.⁶⁹ Further, the report noted that the goal of 25 per cent women in decision-making levels had yet to be achieved.⁷⁰ The General Assembly, in response, adopted resolution 51/67, which reaffirmed the objective of a 50/50 gender distribution by the year 2000 in order to achieve the goal from the Platform for Action adopted by the Fourth World Conference on Women.⁷¹

18. In 1996, the United Nations Administrative Tribunal (UNAT) heard a case concerning the status of women in the Secretariat.⁷² In this case, a female staff member (one year away from retirement age) at the P-5 level applied for a D-1 level position (to become available when the incumbent reached his age of retirement), and was short-listed along with two male staff members. However, the incumbent had his tenure extended past his date of retirement, which delayed the selection of his replacement. Eventually, one of the male staff members was selected for the post. The female staff member argued that this violated ST/SGB/237.⁷³ The Tribunal decided in favor of the female staff member, stating that the Secretary-General Bulletin was proper and authoritative, and because the female staff member was at least as qualified (if not more qualified) than her male counterparts, she should have been given the promotion. She was awarded monetary damages by the Tribunal.⁷⁴

19. In 1997, the General Assembly turned its attention to the funding for the Focal Point for Women. In April of 1997, the General Assembly requested that the Secretary-General make proposals for the structure and source of funding for the Focal Point, and requested that the Secretary-General take the measures necessary to allow the fulfillment of the Focal Point for Women mandate as soon as possible.⁷⁵ At this time, the Secretary-General again updated both the ESC⁷⁶ and the General Assembly⁷⁷ on the statistics regarding the employment of women, and made a series of recommendations for the implementation of the mandate of the Focal Point for Women.

⁶⁹ Ibid.

⁷⁰ Ibid., para. 34.

⁷¹ G A resolution 51/67, paras. 3 and 4.

⁷² AT/DEC/765.

⁷³ ST/SGB/237, which states, “[i]n departments and offices with less than 35 per cent women at levels P-5 and above, vacancies overall and in the latter group, respectively, shall be filled, when there are one or more female candidates whose qualifications match all the requirements for a vacant post, by one of these females candidatures.”

⁷⁴ Ibid.

⁷⁵ G A resolution 51/226, paras. 4 and 5.

⁷⁶ E/CN.6/1997/7.

⁷⁷ A/52/408.

20. In A/52/408, the Secretary-General recommended that OHRM should create and maintain a database of all staff members to facilitate statistical development. The database would include, but not be limited to gender, nationality, educational qualifications, areas of special knowledge or experience, and language skills. Further, the Secretary-General recommended that OHRM should create a pool of female candidates for promotion to senior-level positions and review the pool with all of the offices/departments accountable for diversity progress.⁷⁸ Finally, the Secretary-General recommended that department heads and offices should inform OHRM of all foreseen vacancies six months in advance to ensure a timely search for female candidates.⁷⁹ Near the close of 1997, the General Assembly adopted resolution 52/96,⁸⁰ which expanded the Secretary-General's mandate for the promotion of women to include the appointment of more women as special representatives and envoys, and for the placement of women in high-level peacekeeping, preventative diplomacy, or economic and social development missions.⁸¹

21. In 1998, the Secretary-General issued his mid-term review of the medium-term plan for the advancement of women (1996-2001).⁸² The Secretary-General reported that renewed efforts had been undertaken to achieve gender balance in staffing, but that those efforts had been thwarted by reform and shrinking resources. However, there was significant statistical data that showed marked improvement in the employment of women in the Secretariat.⁸³ The goal of 50 per cent gender balance in all post categories (especially D-1 and above) was reaffirmed by the ESC in resolution 1998/11.⁸⁴

22. When the ICSC issued its annual report for 1998,⁸⁵ it made several requests of the Secretariat: (1) to issue a booklet containing recent statistical information and provide for a wide distribution of the material, (2) to continue the maintenance and sharing of the gender balance

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Adopted on recommendation of the Third Committee, without vote.

⁸¹ A/52/637.

⁸² E/CN.6/1998/3.

⁸³ Ibid., para. 42 indicates that "[r]enewed efforts to achieve gender balance in staffing have been made but are often thwarted by reform and cuts in resources. In 1997, high-level UNDP appointments of women to senior management positions included the posts of Director of the Office of Human Resources, Director of Finance, Director of Operations and Director of the Regional Bureau for Africa. In the United Nations Secretariat, the percentage of women in the Professional category subject to geographical distribution increased from 34 per cent in 1995 to 36.6 per cent in 1997. Among the 28 departments and offices with over 20 staff reviewed, three have achieved or surpassed the goal of 50 per cent women overall in posts subject to geographical distribution: the Office of Human Resources Management, the Department of Administration and Management and the Department of Economic and Social Affairs."

⁸⁴ See UN Yearbook 1998, p. 1316.

⁸⁵ A/53/30.

database, (3) to establish a database of recruitment sources targeting nationals of developing countries (specifically those unrepresented and under-represented), and (4) to develop a set of guidelines for staff members with decision-making responsibilities to support accountability for ensuring gender balance (in collaboration with the different organizations).⁸⁶ In addition to the requests of the Secretariat, three additional requests were made to the organizations as a whole: (1) to bring to the attention of all managers the previously discussed Platform for Action, (2) to evaluate their recruitment pools to ensure qualified women were being presented by Member States, and (3) to begin engaging in human resources planning (if it had not already taken place). This matter was then reverted to 2001.⁸⁷

23. Through report A/53/376 the Secretary-General informed the General Assembly that, in accordance with resolution 52/96, a sample gender action plan had been developed. The sample plan was based around a departmental structure that displayed many proto-typical characteristics of Secretariat departments and offices.⁸⁸

24. In turning its attention to the status of women in the Secretariat to a more detailed level, the General Assembly adopted resolution 53/119.⁸⁹ This resolution requested the Secretary-General to ensure that each department and office developed a concrete strategy for the recruitment, appointment, and advancement of women to ensure that (in accordance with Article 101) the promotion rate of women remained at 50 per cent until a 50/50 gender distribution was met.⁹⁰

25. The Secretary-General again updated the CSW on the latest statistics in a 1999 report.⁹¹ In this report, the Secretary-General discussed measures that had been taken in order to improve the status of women in the Secretariat. The Secretary-General noted that training had been provided on gender mainstreaming and gender sensitivity in the Department of Political Affairs, the Economic Commission for Africa, and the Economic and Social Commission for Asia and the Pacific, and additional programmes would be organized for the other departments and offices in 1999.⁹²

⁸⁶

Ibid.

⁸⁷

Ibid.

⁸⁸

Ibid., para. 55.

⁸⁹

Adopted on recommendation of the Third Committee, without vote.

⁹⁰

G A resolution 53/119, para. 7.

⁹¹

E/CN.6/1999/5.

⁹²

Ibid. para. 16.

26. The final action in regards to the status of women during the period under review was the adoption of General Assembly resolution 54/139.⁹³ This resolution touched on several issues regarding the status of women, including but not limited to the General Assembly: (1) requesting the General Assembly to pursue other forward-looking strategies at its special 2000 session dedicated to gender equality,⁹⁴ (2) strongly encouraging department heads and offices, that have not yet done so, to organize gender training by the close of the next biennium,⁹⁵ (3) calling upon the Secretary-General to put emphasis on implementing the 1995-2000 plan of action in its final year (2000) to make progress towards the goal of equal gender balance,⁹⁶ (4) encouraging cooperation between the Special Advisor on Gender Issues and Advancement of Women and the OHRM to include and monitor concrete strategies and specific targets for improving female representation throughout the Secretariat,⁹⁷ and (5) requesting the Secretary-General to enable the aforementioned Special Advisor to effectively monitor and facilitate progress in implementing the strategic plan and special measures for women, by ensuring access to the necessary information.⁹⁸

⁹³ Adopted on recommendation of the Third Committee, without vote.

⁹⁴ G A resolution 54/139, para. 4, the General Assembly, “[r]equests the General Assembly, at its special session entitled “Women 2000: gender equality, development and peace for the twenty-first century”, to be held in June 2000, to consider further forward-looking strategies for achieving 50/50 gender distribution in all categories of posts within the United Nations system, especially at the D-1 level and above, with full respect for the principle of equitable geographical distribution, in conformity with Article 101, paragraph 3, of the Charter, and also taking into account the continuing lack of representation or underrepresentation of women from certain countries, in particular developing countries and countries with economies in transition[.]”

⁹⁵ Ibid., para. 7.

⁹⁶ Ibid., para. 8, the General Assembly “[c]alls upon the Secretary-General to implement fully and to monitor the strategic plan of action for the improvement of the status of women in the Secretariat (1995-2000) in order to make notable progress towards the goal of 50/50 gender distribution by the end of the year 2000, especially at the D-1 level and above[.]”

⁹⁷ Ibid., para. 11, the General Assembly “[w]elcomes the inclusion of the objective of improving gender balance in action plans on human resources management for individual departments and offices, and encourages cooperation between the Special Adviser on Gender Issues and Advancement of Women and the Office of Human Resources Management of the Secretariat in the further elaboration and monitoring of these plans, which will include concrete strategies and specific targets for improving women’s representation in each department and office[.]”

⁹⁸ Ibid., para. 17.

2. METHODS OF RECRUITMENT

(a) In general

27. In 1995, the Secretary-General transmitted a report of the Joint Inspection Unit (JIU) to the General Assembly.⁹⁹ In the report, the JIU stated that the Secretariat ought to modernize its methods of recruitment by diversifying into unused recruitment sources and utilizing greater advertising of vacant positions¹⁰⁰ in order to ensure the recruitment of the best candidates. Additionally, the JIU stated that the principle of equitable distribution should not be infringed upon in this pursuit.¹⁰¹ The Secretary-General provided his comments on the report of the JIU by issuing an addendum. In this addendum, the Secretary-General stated that this part of the recommendation was “fully in line with the Secretary-General’s strategy for the management of the human resources of the Organization.”¹⁰² In decision 49/476, the General Assembly noted the JIU report and the comments of the Secretary-General, and approved the report’s recommendations.¹⁰³

28. In 1997, the General Assembly adopted resolution 51/226¹⁰⁴ in which the General Assembly requested the Secretary-General to announce all vacancies in a manner consistent with the goal of giving equal opportunity to all qualified staff and to encourage the mobility of staff members. The General Assembly further noted that it should be understood that the actual discretionary power of the Secretary-General himself to appoint and promote outside of established procedures should be limited to his Executive Office, the Under-Secretary-General, and Assistant-Secretary-General levels (including special envoys of all levels). Subsequently, the General Assembly adopted resolution 53/221 in 1999.¹⁰⁵ This resolution further emphasized the importance of staff mobility to the Secretariat, requested that the Secretary-General facilitate this through notification of vacancies (internal and external), and decided that the Secretary-General

⁹⁹ A/49/845.

¹⁰⁰ Including the use of electronic billboards, professional journals and magazines.

¹⁰¹ A/49/845.

¹⁰² A/49/845/Add.1.

¹⁰³ See UN Yearbook 1995, p. 1411.

¹⁰⁴ Adopted on recommendation of the Fifth Committee, without vote.

¹⁰⁵ Adopted on recommendation of the Fifth Committee, without vote.

could consider applicants for P-4 posts from outside the Organization (after giving the fullest regards to the qualifications and experience to those within the Organization already).¹⁰⁶

29. During the period under review, a judgement of UNAT was issued concerning the proper announcement of vacancies. In this case, two staff members of the Secretariat filed an application with the United Nations Administrative Tribunal (UNAT), stating that they were denied fair consideration for two D-1 level posts because the positions were not announced.¹⁰⁷ The staff members' office stated that the current reorganization caused a problem, and that the office could not wait the 4 to 6 months necessary to fill the positions by the normal procedures.¹⁰⁸ The Tribunal stated that the only reason not to follow protocol was in the case of an emergency situation (i.e. a natural disaster or peacekeeping mission), and since nothing in the immediate case rose to the requisite level of emergency, the office was in direct and intentional violation of established Organization protocols.¹⁰⁹ Further, the Tribunal believed this conduct to be so egregious that the Secretary-General ought to consider invoking Staff Rule 112.3, which would allow the Secretariat to be indemnified for monetary damages caused by the negligence of its staff members.¹¹⁰

(b) Staff redeployment

30. Another topic addressed during the period under review was the redeployment of staff. In response to a request of the General Assembly,¹¹¹ the Secretary-General submitted a proposed budget for the 1996-97 bienniums that included \$140 million in cost reductions (of the \$154 million required by the Assembly).¹¹² This report outlined the Secretary-General's plans to cut

¹⁰⁶ G A resolution 53/221, the General Assembly "[...] 4. [*r*]eiterates that external vacancy announcements should continue to be submitted to the permanent missions of Member States and be displayed on the notice boards in United Nations premises, as well as posted on the United Nations home page, and decides that they should be effectively circulated on the date of issue and that the deadline for the submission of applications should be at least two months from the date of issue; 5. [*r*]equests the Secretary-General to circulate internal vacancy announcements to permanent missions when issued; 6. [*e*]ndorses the recommendation of the Advisory Committee on Administrative and Budgetary Questions in paragraph 8 of its report on internal vacancies in the Secretariat; 7. [*r*]eaffirms the policy of the Secretary-General to circulate vacancies for posts at the P-5 level and above both internally and externally; 8. [*d*]ecides that the Secretary-General may consider external candidates for posts at the P-4 level, while giving fullest regard, in filling these posts, to the requisite qualifications and experience of staff already in the service of the United Nations[.]"

¹⁰⁷ AT/DEC/914.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ G A resolution 50/214.

¹¹² A/C.5/50/57.

costs in the Secretariat through the increase of the vacancy rates for G and P-level posts, strict enforcement of the retirement age, and recruitment freezes. In order to reallocate the resources of the Organization in an attempt to save money, the Secretary-General had also proposed the introduction of a programme to provide for lateral re-deployment of staff (shifting current staff members onto different projects).¹¹³

31. In order to further compensate for the involuntary reductions in staff, the Secretary-General discussed staff redeployment in more detail. The Secretary-General noted that staff affected by the post-reductions would be considered for every other possible vacancy within the Organization (based on the relative competence of the staff members following a comparative assessment with their peers), with the hopes of retaining staff members who wish to be retained.¹¹⁴ Further, the Secretary-General would offer world-wide early separation buyouts for 1996, which the Secretary-General hoped would account for a number of vacancies.¹¹⁵ With the understanding that the Secretary-General would continue to find appropriate placement for displaced staff, the General Assembly issued decision 50/506 which deferred consideration of the involuntary separation of staff until the Assembly has had time to consider the report¹¹⁶

32. Following this decision, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) issued a report regarding the involuntary separation of staff.¹¹⁷ In this report, the ACABQ stated that the Secretary-General should not carry out his proposed actions regarding the involuntary separations of staff for the sole purpose of budget reduction. The ACABQ stated that only the General Assembly has the authority to abolish posts, and they had yet to take action on the Secretary-General's proposals. Further, the ACABQ advised that staff

¹¹³ A/C.5/50/57/Add.1, states that "[...] 2. [i]n his report of 28 March 1996, the Secretary-General advised the Assembly that, at that stage, as a result of an intensive organization-wide planning response to the budget reductions, an overall reduction of approximately \$140 million of the required \$154 million appeared feasible. These reductions would be achieved through increasing the average vacancy rate for Professional posts and for General Service posts; changes in programme delivery and services; and efficiency gains related to procedural simplification. [...] 8. [a]s indicated in the March report, further vacancies are expected to be realized through full use of attrition in 1996-1997; strict enforcement of retirement age; freeze in recruitment, subject to limited exceptions; introduction of a programme for lateral redeployment of staff; and, should these measures prove insufficient, the involuntary separation of staff. At the same time, monitoring of the vacancy situation in individual departments and offices and vacancies management will be sustained flexibly, taking into account specific programme requirements and priorities of the mandated activities."

¹¹⁴ A/C.5/50/57, para. 19.

¹¹⁵ Ibid., para. 20.

¹¹⁶ See UN Yearbook p. 1323-4.

¹¹⁷ A/51/7/Add.1.

regulation 9.1 should be modified to reflect this fact. Additionally, the ACABQ warned that any decisions in regard to the involuntary separation of staff must be made with due regard to the accountability of the senior officials who implemented those policies, as well as the implications of this action (both financial and judicial).¹¹⁸

33. In resolution 51/221 B, the General Assembly responded to the reports of the Secretary-General and ACABQ. The General Assembly reaffirmed that it has the sole authority to create, transfer, or abolish a post, as well as set the vacancy rate¹¹⁹ and endorsed the actions of the ACABQ with regard to the staff regulations.¹²⁰ Finally, the General Assembly noted the assurances of the Secretary-General that no actions would be taken on the involuntary separation of staff in order to achieve the savings put forward in resolution 50/214.¹²¹ The consideration of these human resources management questions proceeded through the 51st session of the General Assembly, and included reports submitted by the Joint Inspection Unit.¹²²

34. In April of 1997, the General Assembly adopted resolution 51/226.¹²³ In this resolution, the Assembly recognized the effect that the economy had had on the personnel policies of the United Nations, and recognized the need to preserve a proper environment in the Secretariat and sustain the morale of staff members. It decided to continue to consider the report on the situation of staff members and possible redeployment as a matter of priority in the next session, and that no changes to the Staff Rules or Regulations should be made without General Assembly approval.¹²⁴ In its resumed session, the General Assembly took note of the information on the status of redeployed staff members, but took no further action in that regard.¹²⁵

35. During the period under review, UNAT heard several cases regarding the abolition of posts. In 1998, the Tribunal issued a decision on a case where the G-5 level post of a staff

¹¹⁸ Ibid., para. 28.

¹¹⁹ In his proposal, the Secretary-General went beyond the authorized rate of 6.4 per cent.

¹²⁰ G A resolution 51/221 B, paras. 5-7.

¹²¹ Ibid.

¹²² See UN Yearbook 1997, p. 1457. The General Assembly further continued in its 51st session: “[t]he General Assembly, at its resumed fifty-first session, continued consideration of the agenda item on human resources management, including reports submitted by the Joint Inspection Unit (JIU) in 1996 on “The application of UN recruitment, placement and promotion policies (Part II-Placement and promotions)”; “Comparison of methods of calculating equitable geographic distribution within the UN common system”; and “Management-Staff Union relationships in the UN system”. It also considered reports submitted by the Secretary-General on the implementation of his strategy for the management of the Organization’s human resources and other human resources management issues and on the ratio between career and fixed-term appointments.”

¹²³ Adopted on recommendation of the Fifth Committee, without vote.

¹²⁴ G A resolution 51/226.

¹²⁵ G A decision 51/471.

member of the Secretariat had been abolished.¹²⁶ The majority of the duties of her post were transferred to a newly created post which was filled without the posting of an announcement or competition. In this case, the Tribunal found that her post was not in fact abolished, but merely moved, and that the staff member had been unjustly removed from her post. The Tribunal then ordered the Secretary-General to appoint the staff member to a similar post, or pay her 15 months net base salary.¹²⁷

36. Further, in 1997, the Tribunal heard a case in which two staff members relied on the repeated assurances of their superiors that no one employed in their office would lose their positions due to the organizational restructuring that was taking place.¹²⁸ Of the eleven G-level staff members in the office, four of them resigned, and five did not wish to be relocated outside of Rome, which left only the two applicants to be placed.¹²⁹ In spite of the assurances of the office managers, each of the applicants was only offered temporary positions, which would force them to resign their permanent status. When neither staff member accepted the offered positions, they were not offered any other posts. Here, the Tribunal found that the assurances of the office managers, on which applicants relied in good faith, created a binding obligation.¹³⁰ Further, the inability of their office to make a good faith effort to place these two staff members constituted a breach of that promise and the Tribunal ordered that the Respondent compensate both staff members.¹³¹

37. In another case, the Tribunal heard arguments from a former staff member of the Secretariat that accepted a position with the Secretariat (leaving another position) to discover upon his arrival that his post had been abolished.¹³² He was then placed in another post that was abolished, and finally served the remainder of his fixed-term appointment in a “trainee”-type position. The applicant argued that he left his job to join the Secretariat because he was promised a chance at advancement or extension of the appointment (repeatedly and throughout his appointment), even if it was not guaranteed.¹³³

¹²⁶ AT/DEC/879.

¹²⁷ Ibid.

¹²⁸ AT/DEC/841.

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² AT/DEC/767.

¹³³ Ibid.

38. The Tribunal found that the Respondent knew that the posts were being abolished when they hired him, and failed to find the applicant any suitable position in which he would have a chance to prove himself to the Organization and be reviewed for a permanent position or contract extension.¹³⁴ Since the applicant was never given a chance to perform the duties for which he was hired, the Tribunal held that the Respondent acted in bad faith and ordered the respondent to reinstate the applicant to a post relevant to the original posting, or compensate the applicant with two years net base salary.¹³⁵

(c) Internal vacancies

39. During the period under review, the question of internal vacancies became a matter of consideration for the United Nations. In note A/53/327, the Secretary-General brought attention to a decision by UNAT.¹³⁶ In this decision, the Tribunal decided that, pursuant to Staff Rule 4.4 (referring to staff “already in the service of the United Nations”), any staff member who was “employed in the exclusive service of the Organization, who have taken an oath to the Organization and whose Letters of Appointment oblige them to abide by the terms and conditions of the Staff Regulations and Rules”¹³⁷ had a right to apply for any internal vacancy.¹³⁸ This would mean that staff members employed in 200 series positions could apply for 100 series positions, or that candidates who were hired on a temporary, short-term basis (and therefore underwent minimized screening procedures) could apply directly for permanent internal vacancies. According to the Secretary-General, this would cause havoc, and render it almost impossible for the Secretariat to comply with a number of General Assembly resolutions.¹³⁹

40. This note further set out options to be considered in light of the decision of the Tribunal, including legislative options.¹⁴⁰ The Secretary-General offered two primary options for the

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ AT/DEC/852.

¹³⁷ Ibid., para. 3.

¹³⁸ Regardless of the duration or type of appointment.

¹³⁹ A/53/327 states that “[a] recent judgement of the United Nations Administrative Tribunal has called into question the validity of the distinction between internal and external candidates and the possibility of limiting internal vacancies to staff previously recruited under the system of desirable ranges through competitive examinations or after review by the appointment and promotion bodies. The judgement makes it extremely difficult for the Secretariat to comply with a number of General Assembly resolutions relating to the competitive examination system, the eligibility of a limited category of staff to apply for internal vacancies after one year of qualifying service and the system of desirable ranges. The judgement would also require an additional layer in the appointment and promotion process and would have a serious impact on career development of staff.”

¹⁴⁰ Ibid.

General Assembly to consider: (1) the General Assembly could accept the decision of the Tribunal, and repeal a series of its prior resolutions (including portions of 51/226 and 52/219, as well as any resolution regarding gender equality or equitable geographical distribution)¹⁴¹, or (2) the General Assembly could decide to amend Staff Regulation 4.4 in order to maintain and clarify the policies that were developed based on the aforementioned resolutions.¹⁴²

41. In response, ACABQ recommended the Assembly amend Staff Regulation 4.4.¹⁴³ In turn, the General Assembly requested the Secretary-General to maintain his current procedures temporarily until the General Assembly could adopt a resolution in response to the issue raised by the Tribunal.¹⁴⁴ Later, in paragraph 6 of General Assembly resolution 53/221, the General Assembly endorsed the recommendation of the ACABQ to “amend staff regulation 4.4 [...] in order to maintain the current practice with regard to the distinction between internal and external recruitment”.¹⁴⁵

B. Appointment of staff

1. AUTHORITY TO APPOINT STAFF

42. During the period under review, the General Assembly emphasized the role of the Secretary-General and the role of the Office of Human Resources Management (OHRM) in the execution of the United Nations’ responsibilities under Article 101 of its Charter. In 1995, the General Assembly adopted resolution 50/11, which requested (in relevant part) that the Secretary-General ensure that all staff appointments were made in strict accordance with Article

¹⁴¹ Ibid., para. 14 states that“(a) [t]he General Assembly could accept the Tribunal’s interpretation of staff regulation 4.4 by taking note of the judgement. This would make any staff member eligible to apply for any vacancy, regardless of the series of the Staff Rules under which he or she was appointed, regardless of the functions and length of prior service of the staff member (thus removing all restrictions contained in paragraph 27 of section III.B of resolution 51/226, as amended and clarified by resolution 52/219), and regardless of the requirements relating to competitive examinations, gender equality or equitable geographical distribution. Should the General Assembly decide to select this option, it could adopt a resolution in the form set out under option A in annex II to the present report.”

¹⁴² Ibid., states that “(b) [t]he General Assembly could decide to amend staff regulation 4.4 in order to maintain and clarify policies of human resources management introduced and developed on the basis of prior resolutions, which are aimed at ensuring compliance with the highest standards of efficiency, competence and integrity, as well as the requirements of equitable geographical distribution and gender equality and on the basis of which career progression is made available to staff previously appointed under the 100 series of the Staff Rules for a year or longer through the established mechanisms.”

¹⁴³ See UN Yearbook 1998, p. 1310.

¹⁴⁴ Ibid.

¹⁴⁵ A/53/691, para. 7.

101 of the Charter of the United Nations, as well as the further regulations established by the General Assembly (under their authority from Article 101).¹⁴⁶ Then, in 1996, the Joint Inspection Unit recommended¹⁴⁷ that the Secretary-General perform an urgent review to improve all personnel policies and procedures. Particularly, the Secretary-General should focus on promoting the authority of OHRM.¹⁴⁸

43. During the 53rd session of the General Assembly, the General Assembly adopted resolution 53/221.¹⁴⁹ This resolution was adopted in support of the authority of OHRM, and decided that OHRM would remain the primary authority for monitoring and approval of staff recruitment and placement, as well as for interpreting and enforcing the Staff Rules and Regulations of the Organization. The General Assembly further reiterated that OHRM plays a pivotal role in achieving the goals set by the General Assembly in its basic human resources mandates.¹⁵⁰

44. In resolution 53/221, the General Assembly recognized that accountability for all staff members, and transparency of internal processes were pivotal to the proper governance of the United Nations. Further, the General Assembly noted that it had previously approved of the Secretary-General's plan for increasing the efficiency of the United Nations through the delegation of various staff authorities. Further, the General Assembly made a series of requests to the Secretary-General to include specific items in his next report on accountability.¹⁵¹ In addition to requesting that all changes be made in accordance with the Charter and regulations of the United Nations, the General Assembly specifically requested seven elements to be included in the report: “[1] [a] mechanism to review the decisions of the programme managers; [2] [b]ack evaluation; [3] [t]he role of the appointment and promotion bodies and the departmental panels;

¹⁴⁶ G A resolution 50/11.

¹⁴⁷ A/51/656, transmitted to the General Assembly by the Secretary-General.

¹⁴⁸ Ibid.

¹⁴⁹ Adopted on recommendation of the Fifth Committee, without vote.

¹⁵⁰ G A resolution 53/221, the General Assembly “1. [r]eiterates the role, authority and responsibility of the Office of Human Resources Management of the Secretariat in establishing human resources policies and guidelines as well as in ensuring compliance with recruitment, placement and career development procedures throughout the Secretariat; 2. [d]ecides that the Office of Human Resources Management shall remain the central authority for the monitoring and approval of the recruitment and placement of staff and for the interpretation of the regulations and rules of the Organization and their enforcement; [...] 4. [r]ecognizes the central role of the Office of Human Resources Management in ensuring the full implementation of basic human resources mandates set by the General Assembly in the context of recruitment and placement processes.”

¹⁵¹ Ibid., para. 9, to be submitted to the General Assembly through the Advisory Committee on Administrative and Budgetary Questions during the 54th Assembly.

[4] [t]he role of the programme managers in the preparation and submission of budget proposals as well as programme delivery; [5] [t]he role of coordination, supervision and leadership; [6] [t]he accountability of staff to the Secretary- General in exercising his delegated authority; [and] [7] [t]he degree to which programme evaluation influences personnel performance appraisal.”¹⁵² Further in this resolution, the General Assembly recognized that the proper mobility of staff was pivotal to the proper function of the organization, and once again requested the Secretary-General to ensure “the highest standards of efficiency, competence and integrity serve as the paramount consideration in the employment of staff, with due regard to the principle of equitable geographical distribution, in accordance with Article 101, paragraph 3 of the Charter of the United Nations [...]”¹⁵³ The Secretary-General indicated that he would review the implementation of resolution 53/221, and submit his views to the Assembly in 2000 (at the 55th session of the General Assembly).¹⁵⁴

2. ELEMENTS OF APPOINTMENT

45. During the period under review, the Secretary-General submitted Joint Inspection Unit report A/49/845 to the General Assembly. In this report, the JIU discussed the application of UN

¹⁵² G A resolution 53/221, the General Assembly, *recalling* its resolution 49/222 A, by which it endorsed the new strategy for human resources management, “1. [*r*]ecognizes the need to promote responsibility and accountability of staff members at all levels; 2. [*n*]otes the intention of the Secretary-General to streamline administrative procedures further and to eliminate duplication in relation to human resources management through the delegation of authority to programme managers, and requests him to ensure, before delegating such authority, that well-designed mechanisms of accountability, including the necessary internal monitoring and control procedures, as well as training, are put in place, and to report thereon to the General Assembly at its fifty-fifth session; [...] 4. [*r*]equests the Secretary-General, while preparing his report on the system of accountability and responsibility, to include the following elements as well as the elements enumerated in section E, paragraph 5, of General Assembly resolution 48/218 A of 23 December 1993: (a) [a] mechanism to review the decisions of the programme managers; (b) [b]ack evaluation; (c) [t]he role of the appointment and promotion bodies and the departmental panels; (d) [t]he role of the programme managers in the preparation and submission of budget proposals as well as programme delivery; (e) [t]he role of coordination, supervision and leadership; (f) [t]he accountability of staff to the Secretary- General in exercising his delegated authority; (g) [t]he degree to which programme evaluation influences personnel performance appraisal; 5. [e]mphasizes that the administrative and managerial discretionary powers of the Secretary-General should be in conformity with the relevant provisions of the Charter of the United Nations and the staff, financial and programme planning regulations and mandates given by the General Assembly; [...] 8. [e]mphasizes that any delegation of authority should be in accordance with the Charter and regulations and rules of the Organization and should entail clear lines of authority and accountability as well as improvements in the administration of justice, taking into account the central role played by the Office of Human Resources Management in setting the policies and guidelines in respect of the human resources management of the Organization and monitoring their observance and implementation; 9. [r]equests the Secretary-General to submit, through the Advisory Committee on Administrative and Budgetary Questions, at the main part of the fifty-fourth session of the General Assembly, a consolidated and comprehensive compendium of all administrative circulars on the delegation of authority[.]”

¹⁵³ G A resolution 53/221.

¹⁵⁴ See UN Yearbook 1999, p. 1338. For further information, please see UN Yearbook 2000, p. 1337.

recruitment, placement, and promotion policies, specifically discussing the role of staff members over age 60.¹⁵⁵

46. The fourth recommendation in the above JIU report advised that the Secretary-General should be allowed to extend the contracts of current staff until the age of 62 (a two-year increase), assuming that the specific staff member had the relevant experience and the staff member's performance was satisfactory.¹⁵⁶ In effect, this measure would set the retirement age at 62, regardless of when the staff member was originally hired.¹⁵⁷ The Secretary-General responded to this recommendation by the issuance of an addendum. That addendum stated that "[t]he Staff-Management Coordination Committee is tentatively reviewing the desirability of proposing the extension of the retirement age of staff up to the age of 62".¹⁵⁸ A 1999 report of the Secretary-General later noted that the extension of staff contracts up to age 62 had been addressed during staff-management consultation.¹⁵⁹

47. Additionally, the Secretary-General discussed the possible employment of retirees in the above-mentioned 1999 report. In this report, the Secretary-General noted that the General Assembly had endorsed earlier recommendations regarding the use of retirees,¹⁶⁰ and that the General Assembly had further approved the employment of retirees (if, and only if, the requirements of the Organization could not be adequately met by the staff at the time).¹⁶¹

3. TYPES OF APPOINTMENT

(a) In general

48. Near the beginning of the period under review, the Secretary-General sent the General Assembly a report of the Joint Inspection Unit which examined the United Nations' recruitment

¹⁵⁵ A/49/845.

¹⁵⁶ Ibid., Recommendation 4.

¹⁵⁷ At the time, staff hired prior to January 1, 1990 had a retirement age of 60, while those hired after that date had a retirement age of 62.

¹⁵⁸ A/49/485/Add.1, para. 21.

¹⁵⁹ A/54/223. There was no further action taken on this issue during the period under review.

¹⁶⁰ G A resolution 53/221.

¹⁶¹ A/54/223 states that "[c]oncerning the use of retirees, the General Assembly, in section VII of its resolution 53/221, endorsed the observations and recommendations on their use (A/53/691) and requested the Secretary-General to have recourse to the employment of retirees only if the operational requirements of the Organization cannot be met by existing staff. The extension of contracts of staff on board up to the age of 62 has been the subject of staff-management consultation."

and staff placement policies, as well as the United Nations' promotion policies.¹⁶² The eighth recommendation of the JIU read that “probationary contracts for staff recruited through competitive examinations should be abolished. Initial appointment for these staff should be fixed-term for duration of two years. Amendments to the staff rules should be made accordingly.”¹⁶³ In March of 1995, the Secretary-General issued an addendum to the JIU report that stated the Secretariat was in full agreement with the JIU recommendations (and it had already begun implementing the recommendations).¹⁶⁴ Through resolution 49/476, the General Assembly noted the report of the JIU.¹⁶⁵

49. In the JIU review of the following year, the Unit made an urgent recommendation to the Secretary-General to improve the entirety of his personnel policies¹⁶⁶ in accordance with General Assembly Resolution 47/226.¹⁶⁷ The Secretary-General submitted his comments to the report by the issuance of an addendum.¹⁶⁸ In his comments, the Secretary-General agreed with the following recommendations: (1) to emphasize the authority of OHRM in enforcing personnel policies throughout the Secretariat, (2) to ensure strict application of the education requirements for Professional level posts, and (3) to introduce criteria for the accelerated promotion of staff members.¹⁶⁹ Additionally, the Secretary-General expressed readiness to consider (and ultimately pursue) three of the JIU recommendations (namely restricting the duration of temporary appointments at the P-2 or P-3 levels, ensuring that all entry level recruitment be done by

¹⁶² A/49/845.

¹⁶³ Ibid.

¹⁶⁴ A/49/845/Add.1.

¹⁶⁵ See UN Yearbook 1995, p. 1411.

¹⁶⁶ Specifically, according to A/51/656, Recommendation 1: “(a) emphasize the authority of OHRM to enforce recruitment, placement and promotion policies throughout the Secretariat; (b) ban the practices of (i) granting temporary appointments at the P-2 and P-3 levels for periods longer than three months (if they are not related to replacement of staff serving on missions) and (ii) extending or renewing these temporary appointments over the three-months period; (c) ensure strict implementation of the policy that entry-level appointments are made exclusively through competitive examinations and through G to P promotion; (d) forbid the so-called “regularization” of temporary contracts; (e) ban the practice of placing staff members on vacant posts which are at a higher level for more than three months (while making exception only for those who replace the staff serving on missions), and consider staff members placed on these posts for longer periods as non-eligible for promotion against them; (f) cancel all provisions giving automatic preferences either in recruitment or placement or promotion, based on gender, as contradicting Articles 8 and 101.3 of the Charter and Staff Regulation 4.2; (g) ensure strict application of the requirements concerning education standards in recruitment for posts in the Professional category; and (h) introduce specific criteria for accelerated promotion.”

¹⁶⁷ A/51/656.

¹⁶⁸ A/51/656/Add.1.

¹⁶⁹ Ibid., para. 46.

examination, and forbidding the “regularization” of temporary contracts)¹⁷⁰ and refused to endorse the Unit’s recommendation to cancel all provisions giving automatic preferences based on gender.¹⁷¹

50. In General Assembly resolution 51/226,¹⁷² the Assembly made several requests to the Secretary-General in regards to Human Resources Management. At this time, the General Assembly reaffirmed the Secretary-General’s policy of making all entry-level appointments (as well as appointments requiring special language competence) through the use of competitive examinations,¹⁷³ requested the Secretary-General to continue holding exams for P-2 and P-3 level positions for nationals of under-represented countries,¹⁷⁴ invited all under-represented countries to participate in the examinations,¹⁷⁵ and requested that posts at the P-1 through P-3 level not be decreased for budgetary purposes.¹⁷⁶ The General Assembly further requested that the Secretary-General offer probationary appointments to all who pass the examinations and consider all such staff members for permanent positions,¹⁷⁷ as well as create a probationary period for staff who pass examinations for promotion to P-level positions from other staff categories.¹⁷⁸

51. In this same resolution, the General Assembly also requested a limit on temporary appointments and for the Secretary-General to ensure that vacancies are filled permanently in a reasonable manner. The General Assembly requested that: (1) the Secretary-General restrict making temporary appointments against posts of one year or more to fulfill temporary needs,¹⁷⁹ (2) the Secretary-General prevent the placement of staff members to higher-level unencumbered posts for longer than three months (and to ensure that vacancy announcements for these posts are made within three months),¹⁸⁰ and (3) OHRM be immediately notified of all vacancies, and six-

¹⁷⁰ Ibid., para. 47 states that “[t]he Secretary-General expresses readiness to pursue the recommendations contained in the sub-paragraphs cited below, bearing in mind the considerations set out paragraphs 12 through 14 of the present commentary: [...] (b) [n]an the practices of (i) granting temporary appointments at the P-2 and P-3 levels for periods longer than three months (if they are not related to replacement of staff serving on missions) and (ii) extending or renewing these temporary appointments over the three-month period; (c) [e]nsure strict implementation of the policy that entry-level appointments are made exclusively through competitive examinations and through G to P promotion; (d) [f]orbid the so-called regularization of temporary contracts”.

¹⁷¹ A/51/656/Add.1.

¹⁷² Adopted on recommendation of the Fifth Committee, without vote.

¹⁷³ G A resolution 51/226, para. 15.

¹⁷⁴ Ibid., para. 16.

¹⁷⁵ Ibid., para. 17.

¹⁷⁶ Ibid., para. 18.

¹⁷⁷ Ibid., para. 19.

¹⁷⁸ Ibid., para. 22.

¹⁷⁹ Ibid., para. 9.

¹⁸⁰ Ibid., para. 10.

months in advance of all foreseen vacancies.¹⁸¹ In 1998, the Secretary-General issued a report¹⁸² containing his proposed actions to achieve the goals set for him by the General Assembly.¹⁸³

52. In 1995, a challenge to the competitive examinations was brought before the United Nations Administrative Tribunal.¹⁸⁴ In this case, G-level staff members brought a complaint stating that they had a right to be considered for promotion to the P-level based on merit and experience, without having to take the competitive examination.¹⁸⁵ The Tribunal found that this did not raise a question over which the Tribunal had competence.¹⁸⁶ Because the rules surrounding the competitive examination were based in General Assembly resolutions, and the G-level staff members have admittedly failed to state that those resolutions violated the Charter in any way, there was no case to be considered.¹⁸⁷

53. Several other cases came before the Tribunal during the period under review regarding the expectation of continued service after the termination of a fixed-term appointment.¹⁸⁸ In one case, the Tribunal held that while the appellant staff member had no expectation of renewal, the Organization must provide a legitimate basis for non-renewal of a contract.¹⁸⁹ In this case, the Tribunal found that none of the reasons cited for the staff member's non-extension were legitimate, and some showed animus towards the staff member. The staff member was awarded monetary damages.¹⁹⁰

54. The second case affirmed that a fixed-term staff member has no expectation of continuing service at the close of his or her appointment.¹⁹¹ A government employee, on secondment from his home government for a two-year fixed-term appointment was granted an

¹⁸¹ Ibid., para. 11.

¹⁸² A/53/342.

¹⁸³ See UN Yearbook 1998, p. 1309. The report states specifically, "proposals on the introduction of a probationary period for successful candidates in the competitive examination for promotion to the Professional category of staff from other categories and geographical imbalance resulting therefrom; feasibility of holding national competitive examinations in the six UN official languages; career development; linguistic qualifications of staff; efforts to achieve 70 per cent of permanent appointments in posts subject to geographical distribution; detailed proposals for the implementation of a dual-track system of career and non-career appointments; hiring of retirees and use of consultants; performance management".

¹⁸⁴ AT/DEC/722.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ See also AT/DEC/795.

¹⁸⁹ Ibid.

¹⁹⁰ Ibid.

¹⁹¹ AT/DEC/930.

extension that was agreed to by himself, the Secretariat, and his government.¹⁹² After the four-year term expired, the United Nations wished to offer him conversion to a permanent appointment, but his government refused its consent, and the staff member's contract was not renewed. The Tribunal found that because this was a legitimate secondment, that all parties anticipated that the staff member would return to service in his government, and the staff member served for less than five years, he had no expectation of continuation after the close of his fixed-term appointment.¹⁹³ Therefore, the Tribunal rejected his application in its entirety.¹⁹⁴

(b) Ratio between career and fixed-term appointments

55. In 1995, the Secretary-General submitted a report on the ratio between career and fixed-term appointments,¹⁹⁵ pursuant to a previous request by the General Assembly.¹⁹⁶ In 1996, the General Assembly adopted decision 51/456.¹⁹⁷ This decision requested the Secretary-General to make several efforts (on an interim basis) to limit all types of staff appointments, and to limit the conversion of any appointments while it considered the need for a general recruitment freeze, as well as to report back to the General Assembly.¹⁹⁸ The report the Secretary-General filed in response to this decision was subsequently submitted and reviewed by the General Assembly during its resumed 51st session. This report contained the information requested by the General Assembly, as well as the status of the implementation of the Secretary-General's strategy for human resource management, and the ratio between career and fixed-term appointments.¹⁹⁹

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ G A resolution 49/222 A, section II.

¹⁹⁶ A/C.5/51/34.

¹⁹⁷ Approved by Fifth Committee (A/51/643/Add.1) without vote, 17 December (meeting 46).

¹⁹⁸ G A decision 51/456 specifically requested the Secretary-General, "(i) [t]o review the need for the general recruitment freeze and to oversee and monitor all recruitments, appointments, placements and promotions through the Office of Human Resources Management of the Secretariat, taking into account the need to recruit from unrepresented and under-represented Member States and to achieve gender balance; (ii) [n]ot to expand arrangements that exist with regard to delegation of authority in recruitment, appointment, placement and promotion matters; (iii) [t]o limit short-term appointments against regular budget posts to temporary replacements in case of mission service and leave; (iv) [t]o limit exceptions to regular rules and procedures to the recruitment, appointment, placement and promotion of under-secretaries general, assistant secretaries-general, special envoys at all levels and staff of the Executive Office of the Secretary-General; (v) [t]o continue not to convert fixed-term contracts into permanent contracts until the General Assembly has taken action on the relevant report; (vi) [t]o report to the General Assembly at the first part of its resumed fifty-first session on all recruitment, appointment, placement and promotion activities after 1 November 1996."

¹⁹⁹ See UN Yearbook 1997, p. 1457.

56. In 1997, the General Assembly adopted resolution 51/226,²⁰⁰ which addressed the Secretary-General's report on the ratio between career and fixed-term appointments, and made a series of alterations to the Organization's personnel system. While the General Assembly recognized the importance of career service for staff members, it requested that the Secretary-General continue to strive for a 70 per cent ratio of permanent (career) staff members to short-term (fixed-term) staff members.²⁰¹ Further, the General Assembly repealed its previous policy of allowing automatic transition to a permanent appointment after five years of service, recognizing that other factors should play a role in determining appointment conversion.²⁰² Finally, the General Assembly endorsed (in principle) the creation of a dual track system of career and non-career appointment, and requested more detailed proposals for the implementation of this type of system, including any necessary amendments to the Staff Rules and Regulations.²⁰³

57. Subsequently, on recommendation of the Fifth Committee, the General Assembly adopted resolution 53/221,²⁰⁴ establishing guidelines for the Secretary-General to consider when creating his proposals for a dual-track appointment system. The General Assembly requested the Secretary-General to take into consideration the extensive experience of other international and regional organizations in this field, and to draw from worldwide human resource experience (including the work of the ICSC) when the Secretary-General formulated his proposals.²⁰⁵ The Assembly also requested that the ICSC prepare a study on fixed-term contracts in the United Nations, through the hermeneutic principle of the needs and interests of the Organization.²⁰⁶

C. Conditions of service

1. AUTHORITY RESPONSIBLE FOR DETERMINING THE CONDITIONS OF SERVICE

58. During the period under review, the ICSC continued its work to regulate and coordinate the conditions of service of the United Nations system of salaries and allowances, as set out in

²⁰⁰ Adopted on recommendation of the Fifth Committee, without vote.

²⁰¹ G A resolution 51/226.

²⁰² Ibid., these factors include but are not limited to, "outstanding performance, the operational realities of the organizations and the core functions of the post, should be duly taken into account[.]"

²⁰³ Ibid.

²⁰⁴ Adopted without vote.

²⁰⁵ G A resolution 53/221 para. 25.

²⁰⁶ Ibid., para. 26.

General Assembly resolution 3357 (1974) and defined prior to 1994.²⁰⁷ By the end of the period under review, thirteen organizations had subscribed to the ICSC statute²⁰⁸, and one organization (the International Fund for Agricultural Development) fully participated in the work of the ICSC, but had yet to formally accept the statute.²⁰⁹

59. In 1995, the General Assembly requested²¹⁰ the ICSC to review its working methods and pay special attention to how the ICSC consults with the executive heads of the ICSC's interlocutors and staff.²¹¹ After the completion of this review, the ICSC issued its report²¹² to the General Assembly. The ICSC had decided to alter the length and timing of its sessions²¹³ for a trial period in order to increase the Commission's effectiveness. Further, the ICSC noted that it had made attempts to restore dialogue with its interlocutors and staff, but had been unsuccessful (specifically noting a breakdown in communications with the Federation of International Civil Servants' Associations (FICSA)).²¹⁴

60. In response to the report of the ICSC, the General Assembly adopted resolution 50/208 in which the General Assembly (1) reaffirmed the ICSC's authority as an independent organization, (2) adopted the ICSC recommendation to alter the timing and length of its sessions, (3) asked the Secretary-General and Member States²¹⁵ to ensure that the ICSC was staffed with staff members holding the requisite knowledge and technical experience, (4) asked the Coordinating Committee for International Staff Unions and Associations of the United Nations System (CCISUA), and FICSA to resume working with the ICSC, and (5) requested that the ICSC work to ensure clarity in its technical reports.²¹⁶ At its following session, the General Assembly requested an audit of

²⁰⁷ See UN Yearbook 1995, p. 1404.

²⁰⁸ The United Nations; the International Labour Organization (ILO); the Food and Agriculture Organization of the United Nations; the United Nations Educational, Scientific and Cultural Organization (UNESCO); the World Health Organization; the International Civil Aviation Organization; the Universal Postal Union; the International Telecommunication Union; the World Meteorological Organization; the International Maritime Organization; the World Intellectual Property Organization; the United Nations Industrial Development Organization; and the International Atomic Energy Agency.

²⁰⁹ See UN Yearbook 1999, p. 1319.

²¹⁰ G A resolution 49/223.

²¹¹ See UN Yearbook, 1995, p. 1406.

²¹² A/50/30.

²¹³ See UN Yearbook 1995, "[the Commission] decided to hold a four-week session in the spring and a one- to two-week session in the summer, depending on need, as defined by the agenda; if that formula was found to be effective, it would be adopted in the future for even-numbered years."

²¹⁴ Ibid., p. 1406

²¹⁵ Pursuant to Articles 3 and 4 of the ICSC statute.

²¹⁶ G A resolution 50/208.

the ICSC be performed by the Board of Auditors (noting that the ICSC had not been audited since its inception).²¹⁷

61. In 1997, the ICSC considered the request of the CCISUA to establish a multi-organization working group on the Consultative Process and Working Arrangements.²¹⁸ After consideration of the CCISUA proposal, the ICSC accepted both the establishment of the working group, as well as the draft arrangements for its functioning.²¹⁹ Within the first year of the establishment of the working group, it made a report that covered five major areas: “(a) agenda management, including the identification of issues; (b) data gathering with a view to enriching the information available; (c) consideration of items and decision-making by the Commission, encompassing also the design and content of ICSC reports; (d) appointment of Commission members; and (e) roles of the Executive Secretary and the [ICSC] [S]ecretariat, including selection and appointment.”²²⁰ Further, the recommendations of the working group made in three of the above five areas involved changes to the ICSC rules of procedure.²²¹ The Commission preliminarily agreed to all of the proposed amendments, but indicated that it would seek legal opinions on the issues to ensure there was no conflict with the statute of the ICSC, or other unforeseen legal consequences (the changes to take effect when staff representatives resumed active participation in the ICSC).²²²

²¹⁷ In G A resolution 51/216, the General Assembly, “[r]ecognizing that an audit of the work of the International Civil Service Commission has not been undertaken since its establishment, Calls upon the Board of Auditors, without prejudging its programme of work, to conduct a management review of all aspects of the work done by the secretariat of the Commission in time for the submission of a report thereon to the General Assembly during its fifty second session.”

²¹⁸ The ICSC 1998 annual report [A/53/30] explains the Working Group on the Consultative Process and Working Arrangements of ICSC as follows: “38. The Working Group on the Consultative Process and Working Arrangements of ICSC was established by the Commission at its spring 1997 session in response to a request by the Coordinating Committee for International Staff Unions and Associations of the United Nations (CCISUA), supported by ACC and the Federation of International Civil Servants= Associations (FICSA), to review the functioning of the Commission. The General Assembly, in its resolutions 50/208 of 23 December 1995, 51/216 of 18 December 1996 and 52/216 of 22 December 1997, had requested CCISUA and FICSA to resume their participation in the work of ICSC in a spirit of cooperation and non-confrontation; the Assembly took note of the establishment by the Commission of the Working Group. The Working Group was composed of members of ICSC, representatives of CCAQ and representatives of CCISUA and FICSA; it met three times during the first half of 1998. It was assisted in its deliberations by a facilitator who was a Commissioner of the Australian Industrial Relations Commission. The report of the Working Group, containing, *inter alia*, its terms of reference, composition and agenda, is contained in annex II to the present report.”

²¹⁹ See UN yearbook 1997, p. 1451.

²²⁰ A/53/30.

²²¹ Ibid.

²²² Ibid., para. 53 states that “[t]he Commission emphasized that the above changes proposed to the rules of procedure had been agreed to by all participating parties to the discussion, members of the Commission and

62. The General Assembly then adopted resolution 53/209²²³ in which the General Assembly welcomed the progress made by the ICSC, but emphasized that the responsibility for decisions taken by the ICSC rested upon the ICSC itself.²²⁴ The General Assembly further noted “the changes approved by the Commission to its rules of procedure could enable all parties to ensure that their views are reflected during all phases of the consideration of all issues[.]”²²⁵

63. In 1999, the Secretary-General²²⁶ submitted recommendations²²⁷ to the General Assembly concerning the composition of and terms of reference for a group designed to examine “the mandate, membership and functioning of the ICSC.”²²⁸ The General Assembly decided to postpone any decisions based on the Secretary-General’s recommendations until its next session.²²⁹

members of the Working Group, except for FICSA, which had maintained its observer status; those changes contributed to the consultative process without detracting from the substance of the Working Group's original proposals. The Commission understood that for some, agreeing to those changes had required flexibility; the Commission had also been flexible. The reformulation of the passages in question and the changes agreed to were a positive demonstration of a new spirit of cooperation on the part of all parties to the process.” Further, para. 54 states that “[g]iven the far-reaching effects of the proposed amendments to its rules of procedure, the Commission wished to safeguard itself against unforeseen legal implications and to ensure that the amendments were not in conflict with the statute. As a precaution, it would seek a legal opinion on these issues. Moreover, it wished to make clear that the amendments to the rules of procedure would go into effect only when the staff representatives had resumed their active participation in the work of ICSC.”

²²³ Adopted on recommendation of the Fifth Committee, without vote.

²²⁴ G A resolution 53/209 paras. 1, 2.

²²⁵ Ibid., para. 5.

²²⁶ After being supported by a recommendation of the Administrative Committee on Coordination.

²²⁷ A/54/483.

²²⁸ See UN Yearbook 1998, p. 1300.

²²⁹ The Assembly, in section IV of resolution 54/238 stated that: “[r]eview of the International Civil Service Commission *Recalling* paragraph 22 of its resolution 52/12 B of 19 December 1997, *Having considered* the note by the Secretary-General on the review of the Commission, 1. [*e*]mphasizes that the review process should be impartial and transparent, and that the Commission shall participate fully in the process; 2. [*d*]ecides to revert to the consideration of the modalities of the review of the Commission, including the proposal of the Secretary-General contained in his note, at the main part of its fifty-fifth session, subject to the submission by the Secretary-General of the information requested in paragraph 22 of General Assembly resolution 52/12 B; 3. [*r*]equests the Secretary-General to include the following elements in the information to be submitted to the General Assembly: (a) Concrete and specific reasons, if any, for such a review; (b) Identification of specific problems, if any, to be addressed; (c) Objectives to be achieved by the review; (d) Possible impact on the common system of such a review; (e) Information on progress achieved as a result of previous reviews of the working methods and functioning of the Commission.

2. ENTITLEMENTS OF STAFF

(a) Remuneration

(i) *Noblemaire principle*

64. During the period under review, the United Nations took steps to make the United Nations remuneration scheme competitive with that of State Governments, the World Bank, and the Organization for Economic Co-operation and Development (OECD). In a report²³⁰ to the General Assembly in 1995, the ICSC made several recommendations to the General Assembly to ensure competitiveness with like organizations.

65. The first of these recommendations was to include the bonuses and performance awards (that had been given to the United States and United Nations common system staff, in addition to all comparable awards on the United Nations' side) in remuneration comparisons resulting from grade equivalencies. The second recommendation was made in order to bring United Nations' salaries to a level competitive with civil service salaries in the United States. The ICSC recommended that the United Nations use a remuneration weighting method equivalent to that of the United States federal service pay system, to be determined on the basis of type of occupation.²³¹

66. Another set of recommendations made by the ICSC was designed to make the United Nations' compensation system competitive with the systems offered by the World Bank and OECD.²³² In order to achieve this, the ICSC recommended that the World Bank and OECD become reference indicators to gauge the competitiveness of the United Nations system. In addition to using the World Bank and OECD, the ICSC reaffirmed the principle of using the best

²³⁰ A/50/30.

²³¹ In the ICSC 1995 report, the Commission decided to report to the General Assembly that: "(b) [i]n respect of the remuneration comparisons resulting from the grade equivalencies, it had decided: [...] (ii) [t]o include bonuses and performance awards granted to United States and United Nations common system staff (except for those granted to eligible SES staff as meritorious and distinguished awards) and all comparable awards on the United Nations side; (iii) [i]n order to reflect adequately all the comparators' relevant pay systems in remuneration comparisons, to reduce the dominance of the United States federal civil service General Schedule in the current net remuneration margin comparison process using an equal weighting method applied to United States federal civil service pay systems on an occupation-by-occupation basis."

²³² A/50/30, para. 197.

paid national civil service as a benchmark for United Nations' pay scales (the Noblemaire Principle²³³).²³⁴

67. The General Assembly, through resolution 50/208 adopted ICSC's reaffirmation of the Noblemaire Principle,²³⁵ but asked that the Commission re-examine two issues it had recommended. The first of these issues was "the manner in which net remuneration comparisons are made with the current comparator" (the United States),²³⁶ and the second was "clarification of outstanding difficulties in making comparisons with the German federal civil service."²³⁷

68. The ICSC's 1996 report acknowledged the request of General Assembly resolution 50/208, and noted that it would additionally monitor updated information in regards to the current comparator's special pay systems.²³⁸ After a re-examination of the data, the ICSC reported to the Assembly that it had performed the in-depth evaluations that the Assembly had requested, and in regards to the first question of resolution 50/208 had re-affirmed all of its previous recommendations.²³⁹

²³³ Named after a Chairman of a Committee of the League of Nations.

²³⁴ ICSC noted that the compensation package of the common system was not competitive with that offered by the World Bank and OECD for equivalent jobs requiring similar levels of competence. The commission stated following: "the Commission considered that it would be appropriate to use OECD and the World Bank as reference indicators for the competitiveness of United Nations system salaries. The Commission also agreed to reaffirm the long-standing practice of comparisons with the best-paid national civil service under the application of the Noblemaire principle."

²³⁵ On 23 December, the General Assembly adopted resolution 50/208 entitled United Nations common system: report of the International Civil Service Commission states that "[r]ecalling its resolutions related to the study of all aspects of the application of the Noblemaire principle, Recalling also section I.B of its resolution 44/198 of 21 December 1989, by which it reaffirmed that the Noblemaire principle should continue to serve as the basis of comparison between United Nations emoluments and those of the highest-paying civil service, [t]aking note of chapter III of the report of the International Civil Service Commission in respect of grade equivalencies with the comparator civil service, the evolution of the margin, the identification of the highest-paid national civil service and the collection of reference data from other international organizations, as well as the views expressed thereon by Member States in the Fifth Committee of the General Assembly, [r]econfirming the continued application of the Noblemaire principle [...]."

²³⁶ A/50/30.

²³⁷ Ibid.

²³⁸ Ibid.

²³⁹ Ibid., para. 32 states that "ICSC decided to report to the General Assembly that it had carefully reviewed the issues raised by the Assembly regarding: (a) [t]he reduction of dominance in margin comparisons through the use of the equal weighting method; (b) [t]he inclusion in those comparisons of all bonuses and performance awards of the various pay systems except the distinguished and meritorious awards granted to SES. It had decided to reaffirm both these decisions, which had been arrived at after an in-depth consideration. In this regard, all prior recommendations of the Commission as reflected in paragraphs 90 to 119 of the Commission's twenty first annual report were reaffirmed."

69. Regarding the second half of the General Assembly's request in resolution 50/208, the ICSC performed an analysis of the German Federal Service System.²⁴⁰ Among its findings, the ICSC found that the total compensation levels were higher in the German civil service system than the current comparator system (the United States) in use by the United Nations. However, after discussions with German officials, the ICSC concluded that it was not possible to fully evaluate the German System without a complete change in the methodologies in use by the ICSC, and that a modification of the approved methodology was not justified in this case. The ICSC maintained its position that, without regard to the aforementioned findings, the current comparator system should remain unchanged for two reasons: (1) the process of changing comparators is highly complex, and affects a wide-range of policies (including currency of record, pensions, etc), and (2) the ICSC was concerned that the superiority of the overall compensation levels of the German Federal Service System could not be maintained. As such, the ICSC reiterated its belief that the current comparator should remain unchanged, but the German system should continue to be monitored in addition to the comparator.²⁴¹

70. In addition to the reports by the ICSC, the Secretary General (in a December 1997 note),²⁴² sent the General Assembly a statement of the second session of the Administrative Committee on Coordination (ACC).²⁴³ In this statement, the ACC recognized the difficulties in switching comparators, and as an alternate solution the ACC proposed the following: because the gap between the overall remuneration levels of the German and United States civil service system was roughly around 11 per cent (in Germany's favor), the General Assembly should increase the margin used by the United Nations from the 110-120 range to the 120-130 range in

²⁴⁰ Ibid.

²⁴¹ Ibid., para. 47 states that "[t]he Commission decided to report to the General Assembly that: (a) [b]ased on a technical evaluation conducted within the approved methodology, the total compensation levels of the German federal civil service had been found superior to those of the current comparator (as reported to the Assembly in para. 172 (b) (i) of its twenty-first annual report). That continued to be the case; (b) [a]fter further discussion with the German officials, it had emerged that it would not be possible to narrow existing differences on the scope of the study or the applicability of the Master Standard to the German civil service without substantially modifying the current methodology. In this context the Commission did not consider that a modification in the approved methodology was justified; (c) [i]ts conviction regarding the superior position of the German civil service in total compensation terms and the applicability of the approved methodology notwithstanding, the Commission did not consider that it was opportune to recommend a change of comparator for the following reasons: (i) [t]he actual process of changing comparators was a complex one, with implications for pensions, the currency of record, the location of the base of the United Nations remuneration system and related issues; (ii) [t]he superiority of the total compensation levels of the German civil service might not be maintained over time. It was for this reason, inter alia, that the Commission had recommended and was again recommending that the situation should be monitored."

²⁴² A/C.5/52/28.

²⁴³ See UN Yearbook 1997, pp. 1451.

order to account for the discrepancy. The ACC further suggested to the General Assembly that that it ought to request a report from the ICSC detailing proposals to increase the United Nations' margin by 10 per cent.²⁴⁴

71. The General Assembly subsequently adopted resolution 52/216,²⁴⁵ reconfirming its dedication to the application of the Noblemaire principle, recognizing that changing comparators was highly complex, and requesting the ICSC to continue to monitor the German and United States systems while the General Assembly takes the question under review.²⁴⁶

72. The following report²⁴⁷ of the ICSC began to show a change in circumstances. In 1998, the ICSC reported that employees in the German Civil Service received greater health and retirement benefits, as well as superior leave and work hours. However, the employees of the United States Civil Service were granted higher net salaries than their German counter-parts. With the application of the Noblemaire principle, the German system had again proven to be the highest paid national civil service, but the gap had narrowed significantly from 1997 to 1998.²⁴⁸ In light of these findings, the ICSC recommended the suspension of annual reports so that the Commission could undertake a study in 2001.²⁴⁹ These recommendations were fully endorsed by the General Assembly, and adopted in resolution 53/209.²⁵⁰

(ii) Special representatives, envoys, and related positions

73. At the 50th session of the General Assembly, the General Assembly adopted resolution 50/219 which, in essence, requested the Secretary-General to review the number of special

²⁴⁴ A/C.5/52/28. The ACC, "[a]cknowledging the complexity of changing from a comparator whose remuneration and classification structures are similar to those of the United Nations and the added complications, inter alia, for pensions, ACC proposes that the margin be used as the mechanism by which the Noblemaire principle may be effectively applied. "Given that the gap between the remuneration levels of the German and the United States federal civil services currently is some 11 per cent, ACC requests the General Assembly to revise the margin from its current range of 110-120 to that of 120-130. It would also request the General Assembly to invite ICSC to make proposals, at the latest to its fifty-third session in 1998, as to an appropriate adjustment in order to bring the United Nations common system remuneration within the revised margin range of 120-130."

²⁴⁵ Adopted on recommendation of the Fifth Committee, without vote.

²⁴⁶ G A resolution 52/216.

²⁴⁷ A/53/30.

²⁴⁸ The gap in 1998 was found to be 108.5 per cent in favor of Germany (down from an 11 per cent gap).

²⁴⁹ A/53/30.

²⁵⁰ On recommendation of the Fifth Committee, without vote.

envoys, representatives and other special high-level positions (hereinafter “special positions”), and to keep the number of special positions at a minimum.²⁵¹

74. Simultaneously, the General Assembly asked that the Secretary-General make sure that the roles of these special positions were both clearly defined and streamlined in order to eliminate any overlap of duties to ensure compliance with regulations and procedures. Additionally, the Secretary-General was asked to report on this issue at the resumption of the 50th session of the General Assembly.²⁵²

75. In response to this request, the Secretary-General issued A/C.5/50/72 detailing the number of special positions then currently serving in the United Nations.²⁵³ The Secretary-General noted that there was a reduction in the number of special positions since 1994, largely due to the conclusion of a number of peacekeeping missions. The report gave a detailed analysis of special positions, including a breakdown of appointments by category since 1991, as well as a list of the current special positions, and a report of how an envoy’s or special representative’s rank and type of appointment were generally determined.²⁵⁴

(iii) Post adjustment

76. The final category of remuneration issues addressed by the United Nations during the period under review was that surrounding post adjustment. In 1995, the ICSC formed a working group in order to address specific issues placed before the ICSC pertaining to post-adjustment.²⁵⁵

²⁵¹ G A resolution 50/219, para. 3. The General Assembly, “[r]eiterates its request to the Secretary-General to ensure that the number of special envoys, special representatives and other special high-level positions is kept at a minimum, that their functions and responsibilities are more clearly defined and streamlined, avoiding any possible duplication, and that current financial regulations and budgetary procedures are fully complied with, and requests him to report on the action he has taken in this regard to the General Assembly at its resumed fiftieth session.”

²⁵² G A resolution 50/219, the General Assembly, “[r]eaffirming its resolution 48/259 of 14 July 1994, 1. [t]akes note of the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions; 2. [e]ndorses the conclusions and recommendations of the Advisory Committee as contained in its report; 3. [r]eiterates its request to the Secretary-General to ensure that the number of special envoys, special representatives and other special high-level positions is kept at a minimum, that their functions and responsibilities are more clearly defined and streamlined, avoiding any possible duplication, and that current financial regulations and budgetary procedures are fully complied with, and requests him to report on the action he has taken in this regard to the General Assembly at its resumed fiftieth session.”

²⁵³ A/C.5/50/72 states that “as of 31 July the number of special representatives and envoys stood at 32, 5 at the Under-Secretary-General (USG) and 11 at the Assistant Secretary-General (ASG) levels assigned to peacekeeping or observer missions; 8 USGs, 1 ASG and 2 Directors performing good offices and related functions; and 4 USGs and 1 ASG assisting the Secretary-General in various capacities.”

²⁵⁴ See UN Yearbook 1996, p. 1316.

²⁵⁵ Most notably post adjustment at the Geneva duty station.

In the same report,²⁵⁶ the ICSC announced that it believed that time-to-time adjustments should be made (as opposed to place-to-place adjustments) when altering the global scale of pensionable remuneration for Professional level (and higher) staff members. The Commission stated that this change would be technically consistent with how place-to-place adjustments were made (including the use of time-to-time adjustments as a measurement of purchasing power parity), and that time-to-time adjustments would be wholly consistent with the requirements of General Assembly resolution 44/198. Further, that the use of time-to-time adjustments would not shift the burden of pension contributions from staff to Member States.²⁵⁷

77. As part of the regular duties of the ICSC, the Commission has been tasked with performing periodic reviews of the post adjustment system. The evaluations most recent to the period under review came in 1981, 1989, 1994, 1995, and 1996^{258,259} After each of these reviews, the ICSC had made recommendations for adjustments to the system (to reflect current cost-of-living standards at each of the locations studied), and the General Assembly adopted those recommendations (without issue) for the studies of London, Montreal, Paris, Rome, Vienna, and Washington, D.C. However, beginning in 1993, the General Assembly began to have concerns about the post adjustment system in Geneva.²⁶⁰

78. From 1993 through 1997, the General Assembly made four requests to the ICSC to review the post adjustment system applicable at the Geneva duty station. The concern of the

²⁵⁶ A/50/30.

²⁵⁷ Ibid., para. 280 states that “[t]he Commission: (a) [d]ecided that, with effect from the next adjustment of the global scale of pensionable remuneration for staff in the Professional and higher categories, actual pension contributions in time-to-time adjustments of the post adjustment index should be used; (b) [n]oted that that approach would be technically consistent with the arrangement for place-to-place comparisons, which included pension contributions as part of the mechanism for establishing purchasing-power parities; (c) [d]ecided to inform the General Assembly that it had carefully examined the requirements of General Assembly resolution 44/198 and had determined that, in the light of the arrangements embodied in the Pension Fund regulations, there would be no shift in the burden of Pension Fund contributions from staff to Member States as a result of implementing the decision in subparagraph (a) above.”

²⁵⁸ A/51/30.

²⁵⁹ A/54/30, states that “[s]ome of the reviews referred to above were carried out by working groups established by the Commission, which included some of its members as well as other outside experts. In the latest review, conducted only three years ago in 1996, the working group included outside experts, among whom were the Chief of the Measurement Development Division, United States Department of State; the Chief of Government Allowances, Indexes Section, Statistics Canada; the Head of the Price Comparison Unit, Statistical Office of the European Communities (Eurostat); and the Head of Compensation Services, Foreign Ministry of the Government of Germany. The working group had carried out a thorough examination of the operational aspects of the post adjustment system and its recommendations had led to decisions by the Commission thereon, which had been endorsed by the General Assembly in section I.E of its resolution 51/216 of 18 December 1996. All reviews of the post adjustment system carried out by the Commission provided opportunities for streamlining the system and addressing abnormalities specific to a duty station.”

²⁶⁰ Ibid.

General Assembly was that the current system was not fully representative of the cost of living for all the staff stationed in Geneva at that time. As a response, the Commission issued four reports (1995, 1996²⁶¹, 1997²⁶², and 1998²⁶³) that were heavily informed by extensive consultations and studies (in the context of which, the ICSC sought advice from the Advisory Committee of Post Adjustment Questions (ACPAQ)), advice from legal consultants and experts, and the Legal Counsel of the United Nations.²⁶⁴ In each of the four reports, the ICSC came to the same conclusion: that any change made specifically to the Geneva duty station's post adjustment system contained difficulties²⁶⁵ in the legal, technical, and administrative fields.²⁶⁶ Further, in order for the ICSC to effect the change necessary to establish a new post adjustment system for the Geneva duty station, the ICSC would be required to act beyond its mandate. As such, the Commission determined that only the General Assembly had the requisite power to effect the systemic changes necessary to fulfill the four above-mentioned requests.

79. During these reviews, the ICSC took into consideration four options to most accurately reflect the cost-of-living in Geneva: “(a) [e]stablishment of a single post adjustment index based on prices at Geneva and the bordering areas in France, (b) [e]stablishment of two separate post adjustment indices, one based upon Geneva prices and the other based upon prices in the bordering areas in France, (c) [e]stablishment of a single post adjustment index based on the comparison of prices of goods and services at Geneva with those applicable in Manhattan only, and (d) [m]aintenance of the status quo.”²⁶⁷ After performing the four aforementioned reviews, the ICSC concluded that the maintenance of the status quo was the best option, given Geneva's proximity to a national border.

²⁶¹ Ibid.

²⁶² Ibid.

²⁶³ Ibid.

²⁶⁴ Ibid., para. 20.

²⁶⁵ As an example of the difficulties, A/52/30 stated the following of one possible solution: “[...] (ii) [o]rganizations in Geneva had indicated that the approach was incompatible with their staff regulations and rules, and they would need to have an opportunity to discuss it, as well as other legal and administrative matters, at the level of their governing bodies before implementing the Commission's decisions in that regard; (iii) [i]f some of the Geneva-based organizations decided not to apply the single post adjustment based on the above approach, it would be tantamount to a break-up of the common system; (iv) [s]ince it was anticipated that the approach would result in lowering the post adjustment at Geneva, some transitional measures would need to be applied; (v) [a]pplication of the post adjustment resulting from the above approach might be appealed by staff at Geneva before the Administrative Tribunals; (vi) [w]hile the application of the revised post adjustment based on the above approach would result in some savings in the future when transitional measures were over, the net savings could not be assessed at the present stage since the cost of litigation before the Administrative Tribunals was not known. In view of that, it might be advisable to undertake an analysis of net savings resulting from the above approach [...]”

²⁶⁶ A/54/30 para. 36.

²⁶⁷ Ibid.

80. In a 1999 report,²⁶⁸ the ICSC issued a further opinion about the post adjustment system as a whole. The Commission stated that periodic review and refinement of the system were necessary for its proper function. However, if the system was going to function properly, and “be responsive to developments in the world economy and the changing needs of the common system, it should, as a system dealing with remuneration, be transparent, stable and predictable. The Commission therefore believed that the post adjustment system should be allowed to function for a meaningful period of time so that any future review [would] take place on the basis of experience with its operation. Only in this way [would] it be possible to truly improve the system.”²⁶⁹

81. Near the end of 1999, the General Assembly adopted resolution 53/209. This resolution dealt with a number of items²⁷⁰ that would have an effect on the ICSC, as well as the overall post adjustment system, and staff remuneration as a whole. However, the ICSC found the details of the resolution to be unclear, and resolved to seek clarification about the General Assembly's actions before pursuing the matter any further.²⁷¹

(b) Allowances and benefits

(i) Repatriation Grants

82. During 1995, the General Assembly adopted adjustments to the United Nations system of allowances and benefits. Through resolution 49/241, the General Assembly adopted changes to the schedule of salaries and allowances, annual and special leave, and repatriation grants.²⁷² Through resolution 49/241, the General Assembly extended authority to the Secretary-General to establish the terms and conditions under which a United Nations staff member could receive an education grant in order to facilitate the repatriation of that staff member's dependent children.²⁷³

²⁶⁸ Ibid.

²⁶⁹ Ibid.

²⁷⁰ Ibid., para. 13. According to paragraph 13 of the 1999 ICSC report, these issues included, “the Noblemaire principle and its application; dependency allowances for the Professional and higher categories of staff; operation of the post adjustment system, in particular the issue of the post adjustment at Geneva; recognition of language knowledge; and the framework for human resources management.”

²⁷¹ A/54/30, para. 13.

²⁷² G A resolution 49/241.

²⁷³ Ibid., Annex, Article III (salaries and related allowances) states, “[r]eplace the first sentence of regulation 3.2 (a) with the following text: “Regulation 3.2: (a) The Secretary-General shall establish terms and conditions under which an education grant shall be available to a staff member residing and serving outside his or her recognized home country whose dependent child is in full-time attendance at a school, university or similar

This resolution further established the circumstances under which United Nations staff members should receive leave to travel from their country of service to their home country.²⁷⁴ Finally, resolution 49/241 extended the authority to the Secretary-General to define conditions and details under which the United Nations would give a repatriation grant to a staff member that the organization is obligated to repatriate (excepting those summarily dismissed).²⁷⁵

(ii) Dependency allowance:

83. During the period under review, the General Assembly also took action to adjust the dependency allowances granted to the staff members of the United Nations. Recalling resolution 47/216,²⁷⁶ the General Assembly increased the allowance for children (including those with disabilities) and secondary dependents by 7.98 per cent, and further noted the “updated list of hard currency duty stations for which the allowances are specified in local currency.”²⁷⁷

84. In fulfillment of its previously established duty to report once every two years, the ICSC made further recommendations to the General Assembly in 1998. In 1998, the ICSC recommended that the current valuation system used to determine dependency allowances should be maintained,²⁷⁸ but the dependency allowances should “be reduced by the amount of any direct

educational institution of a type that will, in the opinion of the Secretary-General, facilitate the child's reassimilation in the staff member's recognized home country.”

²⁷⁴ Ibid., Annex, Article V (annual and special leave) states, “[r]eplace regulation 5.3 with the following text: “Regulation 5.3: Eligible staff members shall be granted home leave once in every two years. However, in the case of designated duty stations having very difficult conditions of life and work, eligible staff members shall be granted home leave once in every twelve months. A staff member whose home country is either the country of his or her official duty station or the country of his or her normal residence while in United Nations service, shall not be eligible for home leave”.”

²⁷⁵ Ibid, Annex IV to the Staff Regulations states, “[r]eplace the paragraph with the following text: “In principle, the repatriation grant shall be payable to staff members whom the Organization is obligated to repatriate and who at the time of separation are residing, by virtue of their service with the United Nations, outside their country of nationality. The repatriation grant shall not, however, be paid to a staff member who is summarily dismissed. Eligible staff members shall be entitled to a repatriation grant only upon relocation outside the country of the duty station. Detailed conditions and definitions relating to eligibility and requisite evidence of relocation shall be determined by the Secretary-General”.”

²⁷⁶ G A resolution 51/216, G A resolution 47/216 established that the International Civil Service Commission would undertake reviews every two years of dependency allowances, [including a reflection of] relevant changes in tax abatement and social legislation at the seven headquarters duty stations since 1993.

²⁷⁷ G A resolution 51/216.

²⁷⁸ A/53/30. This reports also notes that “118. In 1992, the Commission decided that the existing methodology for the determination of dependency allowances for the Professional and higher categories should be maintained, i.e., that allowances should be determined on the basis of tax abatements and social security payments in the countries of the seven headquarters duty stations. The General Assembly, in its resolution 47/216 of 23 December 1992, had noted the Commission's decision to review the level of dependency allowances every two years so as to ensure that all relevant changes in the tax and social legislation for the countries concerned were taken into account.

payments [from] a government in respect [to] dependents.”²⁷⁹ On recommendation of the Fifth Committee [A/53/754], the General Assembly adopted a further increase of 14.6 per cent to the children’s and secondary dependent’s allowance, and adopted the ICSCs recommendation to reduce the allowances by those payments United Nations staff members received from governments for the same purpose. The General Assembly further requested that the “methodology, rationale and scope of the allowances” be reviewed and examined by the Commission in 2000.²⁸⁰

85. The final action of the United Nations General Assembly relating to dependency allowances, during the period under review, was the adoption of resolution 54/238.²⁸¹ This resolution adopted the recommendation of the ICSC that the social benefit approach of the children’s allowance should be maintained through 2000, while the ICSC undertakes a review of the floor formula used in said approach.²⁸²

(iii) Education grant

86. Another of the staff allowances that underwent adjustments during the period under review was the education grant. Resolution 51/216, adopted on 18 December 1996, approved adjustments to a number of policies relating to the reimbursement of education expenses, including but not limited to, an increase in the maximum reimbursement level in all seven of the headquarters currency areas (and that the policies should undergo an in-depth review in the following year).²⁸³ Following this review, resolution 52/216 was adopted in December of 1997.²⁸⁴ This resolution, “[endorsed] the modifications to the methodology by the [C]ommission, as contained in paragraph 163 of its report,²⁸⁵ and noted that the revised methodology would be taken into account beginning with the 1998 biennial review of the education grant.”²⁸⁶

119. For the current 1998 review, the Commission had before it the details of the percentage change required in the children's and secondary dependent's allowances based on changes in the tax abatement and social legislation for the seven headquarters duty stations between 1 January 1996 and 1 January 1998.”

²⁷⁹ Ibid.

²⁸⁰ G A resolution 53/209.

²⁸¹ Adopted on recommendation of the Fifth Committee, without vote.

²⁸² A/54/30 states the following: “110. The Commission decided that: (a) The social benefit approach for the payment of the children’s allowance should continue to be maintained; (b) The floor formula should be reviewed, to the extent possible, in 2000, and not later than 2001.”

²⁸³ G A resolution 51/216.

²⁸⁴ Adopted on recommendation of the Fifth Committee, without vote.

²⁸⁵ A/52/30, para. 163 states that “[t]he Commission decided to inform the General Assembly that the methodology for determining the level of the education grant introduced in 1992 had functioned reasonably well. However, based on the experience of the application of the methodology during the past three reviews of the level of

87. Two more adjustments to the education grant took place during the period under review that increased the maximum reimbursement levels,²⁸⁷ on the Fifth Committee's recommendation.²⁸⁸ At the close of the period under review, the General Assembly requested that a further, more substantial review of the education grant (and related processes) take place prior to the close of the 55th session of the General Assembly. This review was to focus on the "purpose, scope, application of and controls for the education grant [... and] specifically on harmonizing education grant practices [with those put forward in] General Assembly resolution 48/224."²⁸⁹

(iv) Regarding mobility and hardship:

88. Another subject to undergo notable changes during the period under review was the mobility and hardship scheme. Previously, under resolution 47/216, the General Assembly had tasked the ICSC with reviewing the scheme the General Assembly had in place at that time.²⁹⁰ Subsequent to the report made during the 51st session of the General Assembly, the General Assembly approved the modified hardship and mobility scheme,²⁹¹ which contained approval of paragraphs 304 (d) and (g) of the ICSC's report,²⁹² which recommended that many of the then current processes continue, as well as the approval of the ICSC's recommendation that hazard

the grant, it had concluded that some modifications to the methodology would be in order. Specifically, the Commission decided on the following modifications to the methodology: (a) [c]apital assessment fees, [...], (b) [f]lat rate for boarding,[...], (c) [a]dditional flat rate,[...], (d) [t]rigger Point."

²⁸⁶ G A resolution 52/216.

²⁸⁷ G A resolution 54/238.

²⁸⁸ See A/53/30, para 190.

²⁸⁹ G A resolution 54/238, III, C.

²⁹⁰ A/51/30.

²⁹¹ G A resolution 51/216.

²⁹² A/51/30, para. 304 states that "[i]n the light of the above considerations, the Commission arrived at the following conclusions/decisions: [...](d) [i]t decided to recommend that no change be made regarding: (i) [t]he current band approach for differentiating the level of the mobility and hardship allowance (P-1 to P-3, P-4/P-5 and D-1 and above); (ii) [t]he current single/dependent relativities (75/100) established for the allowance; (iii) [t]he present approach to home leave entitlements, i.e., 24-month home leave at H, A and B duty stations, 12-month home leave at C, D and E duty stations; Hardship element (e) [t]o recommend that no change be made to existing hardship levels; Mobility element (f) [t]o recommend that the present structure of the mobility element and the conditions attaching thereto be maintained; Non-removal element (g) [t]o recommend that the non-removal element be maintained in the matrix and be time-limited for a period of five years at one duty station, to be extended for up to seven years on an exceptional basis. This time limit should be introduced as of 1 January 1997 [...]."

pay should be detached from the base/floor salary scale for Professional level and higher categories, which was the primary difference from the previous scheme.²⁹³

(c) Pensions

89. Prior to the period under review, during the 48th session of the General Assembly, the ICSC was requested to develop a common scale of staff assessment to determine the amount of pensionable remuneration in both the Professional level (and higher) and the General Service categories, to be provided to the General Assembly in 1996.²⁹⁴ In the 1996 report,²⁹⁵ the ICSC referred to its previous 1993 report informing the General Assembly that a portion of its review would include an investigation into (and possible redress of) the cause(s) of higher levels of pensionable remuneration being present for General Service staff members than for Professional level (and higher) staff members at equal or greater levels of net remuneration.²⁹⁶

90. This comprehensive report further examined the tax systems in each of the seven headquarters duty stations. In the report,²⁹⁷ the ICSC concluded that a regression analysis should be applied to both equally weighting the aggregate net-to-gross tax relationships between all seven headquarters duty stations, and to smoothing the net-to-gross tax relationship for married and single staff (both of which would be based on employee deductions).²⁹⁸ Essentially, the

²⁹³ G A resolution 51/216.

²⁹⁴ G A resolution 48/225.

²⁹⁵ A/51/30.

²⁹⁶ *Ibid.*, para. 68 states that: “[i]n 1993, the Commission reported to the General Assembly that as part of its 1996 comprehensive review of pensionable remuneration and consequent pensions it would develop a common staff assessment scale for the Professional and higher categories and the General Service and related categories to determine the pensionable remuneration of both categories. In this context the Commission provided a procedure which it had developed for determining such a scale. The Assembly, in its resolution 48/225 of 23 December 1993, approved the procedure and requested the Commission to develop a common staff assessment scale in close cooperation with UNJSPB and to make recommendations thereon to the Assembly at its fifty-first session.”

²⁹⁷ *Ibid.*

²⁹⁸ *Ibid.*, para. 105 states that “[t]he Commission concluded the following with regard to the three issues discussed in paragraphs 85 to 88 above: (a) [t]he tax systems at the seven headquarters duty stations should be equally weighted in aggregating the net-to-gross tax relationship among the seven headquarters duty stations; (b) [t]he tax calculations at each of the seven headquarters duty stations should be based on employee deductions. However, this issue would be addressed again at the time of the next comprehensive review; (c) [t]he same regression analysis method should be used in smoothing the net-to-gross tax relationship for married and single staff for application to the Professional and higher categories and General Service and related categories, respectively. 106. The Commission decided to recommend to the Assembly the common scale of staff assessment for the Professional and higher categories and General Service and related categories as shown in annex IV. 107. As to the implementation of the common scale of staff assessment, the Commission agreed that, with regard to the General Service and related categories, the modalities used at the time of the introduction of the current scale, effective 1 January 1992, should be used. The procedure should be as follows: (a) [t]he common scale of staff assessment,

ICSC was adjusting the tax calculations to ensure parity between all seven headquarters duty stations, as well as between married and single staff members.

91. Further, the ICSC did not make any recommendations to modify the special index for pensioners (“used to reduce or eliminate the compensation made for cost-of-living differences in the determination of the initial local currency track pensions under the two-track feature of the pension adjustment system whenever beneficiaries have a tax advantage in an otherwise high-cost country of retirement”),²⁹⁹ and stated specifically that income replacement in the New York duty station should be maintained as the base-line for determining pensionable remuneration in the Professional level (and higher) categories. The pension adjustment procedures remained unchanged as well.³⁰⁰ However, as opposed to the special index, the General Assembly “approved the revised common scale of staff assessment with effect from 1 January 1997 (resolution 51/216).”³⁰¹

92. Other advised changes and adjustments to the pension rules were submitted by the Secretary-General in October of 1996.³⁰² In this report, the Secretary-General advised changes to the 100-series Staff Rules, including the addition of a rule allowing for special leave for pension purposes³⁰³ (in order to protect the benefits of staff within 24 months of reaching 55 years of age and 21 years of service, or within 24 months of 55 years of age and 25 years of service- for the period from 1996-1997).³⁰⁴

following approval by the General Assembly, would go into effect as of 1 March 1997; (b) General Service gross pensionable salaries in effect as at 28 February 1997 would continue to remain in effect until the scale of net salaries was revised, as a result of either a comprehensive General Service salary survey or an interim adjustment; (c) [o]n the occasion of an adjustment of the General Service salaries, resulting from either a comprehensive salary survey or an interim adjustment, the common scale of staff assessment would be applied to net pensionable[...].”

²⁹⁹ G A resolution 51/217.

³⁰⁰ A/51/30, para 122 states that “[t]he Commission decided to recommend to the General Assembly that: (a) [t]he two-step procedure for calculating the special index for pensioners should continue to be used; (b) [t]he number of years of contributory service used in special index calculations should be maintained at 20; (c) [t]he level (grade and step) at which comparisons were made between staff assessment and taxes imposed in the country of residence should be maintained at P-2, top step; (d) [t]he calculation of local taxes in the two-step procedure should continue to be based on deductions relevant to retirees; (e) [d]ependency rates of taxation in the special index calculations should continue to be used.”

³⁰¹ See UN Yearbook 1996, p. 1317.

³⁰² A/C.5/51/7.

³⁰³ UN Yearbook 1996, p. 1331 states that “[t]he General Assembly, by decision 51/455 of 18 December, took note of the amendments to the 100 and 200 series of the Staff Rules, without prejudice to the consideration of agenda item 120, entitled “Human resources management”, at the first part of its resumed (1997) fifty-first session.”

³⁰⁴ Rule 105.2, as amended, reads as follows: “[...] (c) [d]uring the biennium 1996-1997, the Secretary-General may authorize special leave without pay for pension purposes to protect the pension benefits of staff who are within two years of achieving age 55 years and 25 years of service, or who are 55 years of age and within two years of 25 years of service.”

93. The United Nations Joint Staff Pension Board³⁰⁵ also made a series of recommendations relating to staff pensions during the period under review. Those recommendations were largely adopted under General Assembly resolution 51/217 at the end of 1996. The most notable change approved in resolution 51/217 was for special measures to determine local currency track pension amounts for beneficiaries who were living in duty stations that had adopted a new, significantly stronger currency.³⁰⁶

94. In 1998, the General Assembly adopted resolution 53/210³⁰⁷ which noted two basic items: (1) the intent of the United Nations Joint Staff Pension Board to continue to review (every two years) the cost/savings of the then recent modifications to the two-track feature of the pension adjustment system, and (2) the recommendation of the United Nations Joint Staff Pension Board that cost-of-living increases should be triggered when the cost-of-living increased by two per cent (instead of three per cent).³⁰⁸ Resolution 53/210 further adopted a new article concerning the entitlements to survivors' benefits for spouses and former spouses. Resolution 53/210 would change the existing benefits in two ways: (1) it would provide for a measure to allow spouses who were married after separation from service to purchase the pension benefits, and (2) would allow for the benefits of a former spouse to continue after re-marriage.³⁰⁹

³⁰⁵ The United Nations Joint Staff Pension Board had been tasked with the review, every two years, of the costs/savings from modifications to the two-track feature of the pension adjustment system.

³⁰⁶ G A resolution 51/217, para. 3 states that the General Assembly “[a]pproves changes in the pension adjustment system, as set out in annex II to the present resolution, (a) to include, without creating a precedent for other situations, with retroactive effect from 1 January 1996, a special measure for determining local currency track pension amounts for beneficiaries residing in countries where a new currency unit has been introduced that significantly strengthens the relationship of the local currency to the United States dollar, subject to the eligibility criteria set out in paragraph 208 of the report of the Board, and (b) to provide greater specificity in the criteria set out in paragraph 26 of the pension adjustment system for discontinuing the local currency track pension amounts when they lead to aberrant results in a particular country[.]”

³⁰⁷ Adopted by recommendation of the Fifth Committee, without vote.

³⁰⁸ G A resolution 53/210, Section II.

³⁰⁹ *Ibid.*, Section VI, the General Assembly “[a]pproves, with effect from 1 April 1999, the inclusion of a new article in the Regulations of the Fund to provide for a divorced surviving spouse's benefit, subject to conditions regarding eligibility for the benefit and the determination of its amount, as set out in the text of the new article contained in the annex to the present resolution; [...]; [a]pproves, with effect from 1 April 1999, the arrangement recommended for the optional purchase of surviving spouses' benefits in respect of marriages after separation from service, in accordance with the provisions of the new article set out in the annex to the present resolution; [a]lso approves, with effect from 1 April 1999, the amendments to article 34 to eliminate the current provision which requires discontinuation of a surviving spouse's benefit upon remarriage, as set out in the annex to the present resolution.”

95. Finally, in 1999, the Secretary-General submitted a report³¹⁰ that included the text of the Staff Regulations, drafted without any gender-based language.³¹¹ This report additionally clarified the calculation for termination indemnity or a repatriation grant. The base calculation to determine these entitlements was “gross salary less staff assessment”, and the report further noted that “gross salary” would henceforth be used instead of “pensionable remuneration”.³¹²

D. Disciplinary measures

1. JOINT DISCIPLINARY COMMITTEE

96. During the period under review, the Secretary-General submitted a report³¹³ to the General Assembly detailing the process by which the Secretary-General intended to implement the requests of General Assembly resolution 49/222A. In this resolution, the General Assembly asked the Secretary-General to reform the UN justice system to provide for more efficient dispute resolutions.³¹⁴ The Secretary-General reported³¹⁵ that one of the intended reforms would be the replacement of the Joint Disciplinary Committee (JDC) with a Disciplinary Board which would make recommendations to the Secretary-General, who would then decide if and what disciplinary measures should be taken.³¹⁶

97. According to the report, once the Board is seized of a case, the Chairperson and the members of the board would consider it on a full-time basis until its completion, in order to ensure a prompt, thorough, and fair resolution.³¹⁷ Further, the Secretary-General intended that the Board be chaired by the current Chairperson and Alternate Chairperson of the Arbitration Board (in New York and Geneva respectively) in order to lend adjudicative experience to the Board, and the Board would be staffed by staff members appointed based on their technical understanding of the cases brought before the Board.³¹⁸ The appointed members would be chosen by the Secretary-General after he consulted with staff through the joint processes in place

³¹⁰ A/54/276.

³¹¹ In response to G A resolution 52/252.

³¹² See UN Yearbook 1999, pp. 1335.

³¹³ A/C.5/49/60.

³¹⁴ G A resolution 49/222A.

³¹⁵ A/C.5/49/60 para. 36.

³¹⁶ In order to maintain the Secretary-General's authority to discipline staff.

³¹⁷ A/C.5/49/60, para. 37.

³¹⁸ Ibid.

at that time.³¹⁹ The duties of the Board would then be added to the official duties of its appointed members, who would be released by their parent offices in order to serve on the Board.³²⁰

98. During the period under review, the Sixth Committee of the General Assembly³²¹ responded to the Secretary-General's report by issuing A/C.6/51/7, discussing the legal implications of the proposal. The Sixth Committee noted that while it supported reform of the internal justice system, it had doubts about the formation of the Disciplinary Board. The Committee was concerned about the desirability of externally recruited arbitrators acting as chairpersons, and was additionally concerned about the staff members being appointees of the Secretary-General instead of elected participants. The Sixth Committee also suggested that "the role of the Administrative Tribunal should also be considered in the context of this reform".³²²

E. Recourse available to staff members

1. AUTHORITY OVER APPEALS

(a) Joint Appeals Board

99. During the period under review, the Secretary-General responded to a request by the General Assembly³²³ to reform the internal justice system of the United Nations Secretariat. He responded by submitting A/C.5/49/60, outlining the mechanisms that he planned to use when executing the reforms.³²⁴ In this report, the Secretary-General stated that the proposed reform would fulfill the following three purposes: (1) to reconcile and resolve disputes before they become formal litigation, (2) to professionalize the dispute resolution bodies, and provide the mechanisms for efficient resolutions, and (3) to create a simple, cost-effective system by eliminating hidden costs and cross-subsidization.³²⁵ The Secretary-General stated that he believed the proposals would significantly improve the current regime by professionalizing the

³¹⁹ Staff Regulation 8.2.
³²⁰ A/C.5/49/60, para. 38
³²¹ The Legal Committee.
³²² A/C.6/51/7.
³²³ G A resolution 49/222.
³²⁴ A/C.5/49/60/Add.1.
³²⁵ A/C.5/49/60.

dispute resolution staff, and appointing a Legal Officer to the Panel of Counsel which represented the staff members.³²⁶

(i) Replacement of the Joint Appeals Board by an Arbitration Board

100. In order to achieve the aforementioned goals of the reform, the Secretary-General proposed that the in-house Joint Appeals Board (JAB) be replaced by a United Nations Arbitrations Board. While arbitration would not be mandatory, the Secretary-General proposed that the Organization should begin to consider proposals by staff members to have their dispute resolved through mandatory arbitration proceedings. The Secretary-General further proposed that binding arbitration be reviewed in 1998, and if it proved successful, it could become mandatory for later defined cases.³²⁷

(ii) Replacement of the Joint Disciplinary Committee by a Disciplinary Board

101. Additionally, the Secretary-General sought to replace the JDC by a Disciplinary Board. The Disciplinary Board would be comprised of qualified professionals, and would render recommendations to the Secretary-General, who would make the final disciplinary decisions (keeping the Secretary-General's authority to discipline staff intact.)³²⁸

(iii) Appointment of a Legal Officer to the Panel of Counsel

102. The Secretary-General found it important to appoint a Legal Officer to the Panel of Counsel (at the P-4 level). The role of this officer would be to advise staff as to whether their terms and conditions of employment may have been violated, and how to proceed if they had been violated, at any stage of the dispute process. Further, the Legal Officer would additionally advise the staff members that were targets of disciplinary proceedings. Also, the resources to hire and train the Officer would be provided.³²⁹

103. On 26 June 1995, the Secretary-General submitted an addendum to the General Assembly, containing the comments of UNAT.³³⁰ In regards to the replacement of the JABs by Arbitration Boards, UNAT recognized that this was a major and fundamental change of the

³²⁶

Ibid.

³²⁷

Ibid.

³²⁸

Ibid.

³²⁹

Ibid.

³³⁰

See UN yearbook 1995, p. 1423.

internal justice system. As such, UNAT urged caution and stated a change of this degree should be examined with “the utmost care by all concerned”.³³¹

104. In the same addendum, the Secretary-General thanked the Tribunal for its input, and stated that all of the suggestions on the legal aspects of the reform had been accepted.³³²

Regarding the overall rationale of the reform, the Secretary-General argued in support of the broad changes in his proposals. The Secretary-General stated that the reform was only proposed after a careful assessment of the then existing system, which uncovered flaws not seen on the record. Further, that it was the general dissatisfaction³³³ with the then existing system that had pushed the Secretary-General to these reforms.³³⁴ Finally, the Secretary-General noted that the staff had fully supported the proposed reforms, and noted their appreciation for the support of the Ombudsman panels, and the increase in conciliation efforts, as well as the addition of a Legal Officer to the Panel of Counsel.³³⁵ The Secretary-General further elaborated that the staff did not share the Tribunal’s view that the present JAB system should continue (and that the full implementation of the reform should be postponed).³³⁶

105. During the 50th session of the General Assembly, the Secretary-General made the decision to amend his original proposals in order to include the legal aspects of UNAT’s suggestions. The Secretary-General additionally wished to incorporate new provisions³³⁷ developed after additional discussion with the staff.³³⁸

³³¹ A/C.5/49/60/Add.2 states that “[b]efore addressing the specifics of the Secretary-General’s report, the Tribunal notes that the present proposal for optional arbitration to replace Joint Appeals Boards, as well as the future possibility of mandatory arbitration, would constitute major and fundamental changes in the internal system of justice of the Organization. Even prior to the creation of the Tribunal, Joint Appeals Boards were an integral part of the system. As such, they have played an important role in achieving the delicate equilibrium that exists between the interests involved in the process of administrative justice: on the one hand, those of the staff, and on the other, those linked to the efficiency of the administration of the Organization. The Tribunal considers, therefore, that changes of this magnitude should be examined with the utmost care by all concerned. The potential consequences of hasty action could adversely affect the relationship between the staff and the Organization to the detriment of both.”

³³² Ibid. states that “[t]he Secretary-General is grateful to the Tribunal for its comments and suggestions, which are set out in full in the annex to the present note. All the suggestions on the legal aspects of the reform contained in paragraph 17 of the Tribunal’s comments have been accepted.”

³³³ Ibid., the dissatisfaction is evidenced by “repeated requests from the General Assembly, the staff, and many administrators for a fair, just and transparent system.”

³³⁴ Ibid., para. 3.

³³⁵ Ibid., para. 4.

³³⁶ Ibid.

³³⁷ According to UN Yearbook 1995, p. 1424, “[a]dditional proposals included: that the two posts of Administrative Review Officers be established at the P-5 and P-4 levels; that the time-limits for administrative review would be three months; that the Secretary-General intended to accept the unanimous recommendations of the proposed arbitration board, unless there was a compelling reason not to do so; that both the New York and Geneva arbitration boards have a full-time Chairperson, Alternate Chairperson, two part-time members and two part-time

106. Through note A/C.5/50/2/Add.1, the Secretary-General transmitted additional comments of UNAT and the Staff Union of the Secretariat (SUS).³³⁹ Generally, UNAT continued to be skeptical about the effectiveness of the proposed Arbitration Boards. UNAT stated that the costs of the Boards would be greater than anticipated, and that ancillary costs had yet to be taken into account (such as the costs of transcripts, or additional staff to support the Boards).³⁴⁰ Further, UNAT stated that it did not believe an Arbitration Board could handle (at a minimum) 90 cases per year, when only meeting for two five-week periods.³⁴¹

107. Additionally, the SUS put forward several additional concerns regarding the proposed reforms. The SUS identified two primary concerns: (1) ensuring the independence of the arbitrators, and (2) efficient representation for staff members. The SUS stated that if the arbitrators were to be hired and paid by the Secretariat, then all steps must be taken to ensure their independence. As such, the SUS emphasized the importance of a joint approval process for all arbitrators.³⁴² Further, the SUS noted that if the Secretariat were to be represented by lawyers, and the Arbitration Boards were to be staffed by lawyers, then the staff members should also be represented by lawyers during the Arbitration. While the SUS identified that the Secretary-General had proposed steps to strengthen the Panel of Counsel, the SUS argued that the addition

alternate members; and that the revised estimates resulting from the proposals for the 1996-1997 biennium be \$1,536,500. The report also contained the draft statute for the United Nations Disciplinary Board.”

³³⁸ A/C.5/50/2.

³³⁹ A/C.5/50/2/Add.1.

³⁴⁰ A/50/7/Add.8, para. 25 states that “[a]ccording to the Tribunal, the cost implications may be greater than currently anticipated since the concept of a single Arbitration Board with two members serving on a part-time basis may prove to be insufficient for the tasks to be performed and requiring additional full and/or part-time arbitrators. In the opinion of the Tribunal, there may also be requirements for ancillary services, such as transcriptions of testimony. In the view of the Tribunal, there will also probably be a need for additional staff to support the Board. If the Tribunal is correct in its assessment, the related costs, in the opinion of the Advisory Committee, would have to be reviewed.”

³⁴¹ A/C.5/50/2/Add.1, states that “[t]ribunal continues to doubt whether the part-time members of the New York Arbitration Board would be able to deal with an estimated annual case-load of 90 (which may be an underestimate) in two five-week sessions. Taking into account the limited number of cases the Tribunal is able to dispose of each year, approximately between 50 and 60 in two five-week sessions (A/C.5/49/60/Add.2, para. 3, of 26 June 1995), with only rare oral hearings, it would anticipate that an Arbitration Board would face much difficulty in dealing with 90 cases in two five-week sessions if evidentiary hearings, including oral argument, were required in a significant number of them. This would be so, even if all of the members could devote as much time as needed to study the files before each five-week session. In short, time requirements indicate that the arbitration structure is likely to be significantly more expensive than the estimate suggests in paragraph 69 of the consolidated report, merely with respect to the salary and per diem figures for the non-full-time members in New York.”

³⁴² Ibid., para. 6 states that, “[i]n paragraph 28, there is a reference to the independence of the Arbitrators. The staff wish to point out that as long as the Arbitrators are recruited and paid by the United Nations Secretariat, there is need for every precaution to be taken to ensure that they are truly independent, which is why the agreed-upon selection process must be joint.”

of a single Legal Officer to that office would be insufficient to provide adequate representation to all staff members filing a complaint with the Arbitration Boards.³⁴³

108. Through A/50/7/Add.8, the ACABQ was able to consider the proposed reforms and share their insights. The ACABQ recognized the necessity of providing thorough and expeditious review of administrative decisions, and believed that the measures proposed by the Secretary-General would achieve that end. Further, the ACABQ supported the creation of the new P-4 and P-5 posts,³⁴⁴ as well as an enlargement of the Panel of Counsel (and requisite training), stating that these were both a step in the right direction.³⁴⁵ However, ACABQ stated that there were still questions to be answered and concerns to be addressed regarding the creation of the Arbitration Boards.³⁴⁶ As such, ACABQ recommended that the creation of these Boards (as well as the Disciplinary Board, given its close relationship with the proposed Arbitration Boards)³⁴⁷ be delayed until those questions and concerns could be addressed. By decision 50/454, the General Assembly decided that the consideration of this question should be resumed in 1996.³⁴⁸

109. In June of 1996, the General Assembly noted the reports of the Secretary-General, and the observations of the ACABQ. The General Assembly then requested the Sixth Committee to review the legal implications of the proposals before the Assembly, and also requested that the Fifth Committee revert to the reform of the internal justice system during the 51st session of the General Assembly.³⁴⁹

110. The Sixth Committee of the General Assembly was the final body to submit its comments on the Secretary-General's proposals during the period under review.³⁵⁰ In general, the Sixth Committee offered great support for a reform of the internal justice system. However, there were comments of the Committee critical of the replacement of the JAB and the JDC.³⁵¹ It should

³⁴³ Ibid., para. 8 states that, "[i]f the internal justice system is to be professionalized and all who review and make recommendations are to be lawyers, it is essential that the appellants have similar representation. Currently, too many staff go through the appeals process without the effective assistance of counsel because there are very few available internally. The staff specifically agreed to the "strengthening" of the Office of the Coordinator of the Panel of Counsel. It was agreed that there would be a Coordinator and an Assistant, and added to the existing staff would be a Legal Officer and an Assistant. Given the volume of work that has been consistent since 1987, the functions cannot be properly performed by only one additional person."

³⁴⁴ A/50/7/Add.8, para. 14.

³⁴⁵ Ibid., para. 37.

³⁴⁶ Ibid., para. 31.

³⁴⁷ Ibid., para. 36.

³⁴⁸ G A decision 50/454.

³⁴⁹ G A resolution 50/240.

³⁵⁰ A/C.6/51/7.

³⁵¹ See UN Yearbook 1996, p. 1340.

further be noted that while there were critical comments to the aforementioned proposals, they also received support.³⁵² The concerns of the Sixth Committee, in large part, were similar to many of the concerns that had already been brought to light. Specifically, the Sixth Committee remained skeptical about the recruitment of outside arbitrators who might not have been familiar with the special United Nations regime governing its staff members.³⁵³ They were also concerned about the cost and possible rising backlogs of the system proposed by the Secretary-General,³⁵⁴ as well as whether staff members could receive adequate counsel for these proceedings,³⁵⁵ and that members of the Disciplinary Board should be elected instead of selected.³⁵⁶

111. In addition to the concerns already expressed, the Sixth Committee further disputed the validity of the contention that “participation of members elected by the staff to [the JAB and JDC] was a source of inefficiency and delay, because not enough staff members were available for the task and they frequently lacked the necessary capacity or objectivity”. In rejecting this contention, the Sixth Committee rejected one of the primary reasons the Secretary-General stated for the need to replace the JAB and JDC.³⁵⁷

112. Additionally, during the period under review, UNAT heard a case regarding the effect and scope of JDC decisions.³⁵⁸ In this case, a Finance Officer within the Department of Peacekeeping Operations was serving a fixed-term, P-3 level appointment, when he was accused of falsifying invoices to defraud the Organization.³⁵⁹ While the case was waiting for review by the JDC the staff member was suspended without pay. The primary evidence in contention was a tape recording of the staff member allegedly attempting to recruit a Force Catering Officer of the United Nations Peacekeeping Force in Cyprus to participate in the scheme. The JDC found that the tape could have been fabricated and recommended exoneration of the staff member.³⁶⁰ Upon

³⁵² A/C.6/51/7.

³⁵³ Ibid., states that: “[s]erious doubts were expressed about the recruitment of arbitrators from outside the United Nations because they would lack the benefit of familiarity with the special regime pertaining to United Nations staff.”

³⁵⁴ Ibid., states that: “[t]he adequacy of a two section arbitration board to deal with the existing backlog of problems and to keep up to date with the regular flow of problems was raised and cost projections were questioned in that respect.”

³⁵⁵ Ibid., states that: “[c]oncern was also expressed as to whether there were adequate arrangements for legal representation of staff members.”

³⁵⁶ Ibid., states that: “[t]here was an objection to the proposal that staff members should be selected for the board, rather than elected, as was the case with the Committee.”

³⁵⁷ Ibid.

³⁵⁸ AT/DEC/941.

³⁵⁹ Ibid.

³⁶⁰ Ibid.

receiving this recommendation, the Secretary-General decided that because the staff member in question could offer no evidence of the tape recording's fabrication, the Secretary-General believed the tape to be authentic and disciplined the staff member.³⁶¹ The staff member appealed to the Tribunal stating that the Secretary-General should have accepted the JDC's recommendation, and that the staff member should not have been suspended without pay for 10 months pending consideration of the case by the JDC.³⁶²

113. The Tribunal reaffirmed the Secretary-General's prerogative to make any decision supported by the evidence, regardless of the JDC's recommendation. However, the Tribunal also stated that 10 months was a highly unreasonably period of delay, and in violation of the staff member's right to due process. Therefore, the Tribunal ordered that the applicant receive six months' net base pay at the time of separation in compensation for the due process violation.³⁶³

2. UNITED NATIONS ADMINISTRATIVE TRIBUNAL

114. After review of the Secretary-General's 1994 report, the Sixth Committee of the General Assembly recommended an amendment to the Statute of UNAT, in order to address the status of UNAT judgments.³⁶⁴ In December 1996, the General Assembly adopted resolution 50/54 based on that recommendation. The General Assembly amended the UNAT statute by the deletion of Article 11, and the renumbering of the subsequent articles. This action abolished the review of UNAT judgments,³⁶⁵ and made the decisions of the Tribunal final. However, all judgments entered prior to 1 January 1996 would still be open for review under the abolished procedures.³⁶⁶

115. In April of 1997, the President of the International Court of Justice (ICJ) sent a letter to the Secretary-General regarding the abolition of Article 11 of the UNAT Statute through resolution 50/54. The President of the ICJ noted that because of the end of review for UNAT

³⁶¹ Ibid.

³⁶² Ibid.

³⁶³ Ibid.

³⁶⁴ See UN Yearbook 1995, p. 1425.

³⁶⁵ G A resolution 957 (X). Prior to 1995, under Article 11 of the UNAT statute, an appeal of a UNAT judgment could be made (on certain grounds) to a Committee of the General Assembly to request an advisory opinion from the ICJ. Once the advisory opinion of the ICJ was received, the Secretary-General could either give effect to the opinion of the ICJ, or request the Tribunal to convene specially in order that it shall confirm its original judgement, or give a new judgement, in conformity with the opinion of the ICJ. If not requested to convene specially, the Tribunal should at its next session confirm its judgement or bring it into conformity with the opinion of the ICJ.

³⁶⁶ G A resolution 50/54.

judgments (under Article 11), the ICJ would no longer have the jurisdiction to render advisory opinions on any of the judgments issued by UNAT. Because UNAT was now fully independent from ICJ influence, the ICJ found it prudent to alter Article 11 of its Staff Regulations for the Registry to allow the staff of the Registry to take its disputes of the administrative decisions of the ICJ to UNAT.³⁶⁷ However the ICJ had no jurisdiction to effect this change, and therefore the President of the Court asked the Secretary-General to submit a proposed enlargement of UNAT's jurisdiction³⁶⁸ to the General Assembly for the staff members of the ICJ's proper inclusion into the UNAT statute.³⁶⁹ The ICJ proposed that this amendment to the UNAT statute could be included by the creation of sub-paragraphs in Article 13, or the creation of a new Article 14.³⁷⁰ 116. Following this, the Secretary-General submitted a note to the General Assembly³⁷¹ requesting that the General Assembly discuss a possible amendment to Article 13 of the UNAT statute during the 52nd session of the General Assembly.³⁷² During this session, the General Assembly had reached agreements with many different international organizations and entities to expand the jurisdiction of the UNAT, and the Secretary-General found it prudent to extend this authority further to include the International Labor Organization (ILO).³⁷³ During this session of the General Assembly, a wide variety of organizations had entered into relationship agreements with the United Nations, more of which were in the process of being finalized.³⁷⁴ Each of these organizations or entities had also expressed interest in the extension of the UNAT statute to cover their organizations as well.³⁷⁵ In light of this, the Secretary-General found it prudent to

³⁶⁷ Article 11 of the Staff Rules and Regulations of the Registry states that: "In the event of a failure to achieve a conciliation, the administrative decision or disciplinary action may be the subject of an application to the United Nations Administrative Tribunal, in accordance with the statute of that Tribunal and under the conditions to be determined in an exchange of letters between the President of the Court and the Secretary-General of the United Nations."

³⁶⁸ The language proposed by the ICJ read thusly, "[t]he competence of the Tribunal will be extended to the staff of the Registry of the International Court of Justice upon the exchange of letters between the President of the Court and the Secretary-General of the United Nations establishing the relevant conditions."

³⁶⁹ A/52/142/Add.1.

³⁷⁰ Ibid., para. 6.

³⁷¹ A/52/142.

³⁷² See UN Yearbook 1997, p. 1479.

³⁷³ Ibid.

³⁷⁴ A/52/142/Add.1 states that: "[s]uch as the International Seabed Authority, the International Tribunal for the Law of the Sea and the Organization for the Prohibition of Chemical Weapons."

³⁷⁵ Ibid., states that: "[i]t is worth noting in this regard that the above agreements provide for the application by their parties of common personnel standards, methods and arrangements, which is also a requirement to become a member of UNJSPF pursuant to the above-mentioned article 3 of the Regulations of the Fund[...] As indicated in paragraph 2 above, pursuant to article 13 of the Tribunal statute, the competence of the United Nations Administrative Tribunal can at present be extended only to specialized agencies. Article II, paragraph 5, of the statute of the Administrative Tribunal of the International Labour Organization (ILO) provides in this regard that

amend Article 13 of the UNAT statute so that all international organizations or entities that were part of the common system of conditions of service could have the jurisdiction of UNAT extended to them.³⁷⁶

117. In addition to the possible extension of jurisdiction to all common system adherents, the Secretary-General pointed out that there existed an opportunity to clarify an issue in regards to the United Nations Joint Staff Pension Fund (UNJSPF). In his report,³⁷⁷ the Secretary-General noted that the General Assembly had extended the competence of UNAT in UNJSPF cases in resolution 955(X), but that extension of competence was not yet reflected in the UNAT statute. Thus, the proposed amendment to Article 13 (to deal with the position of UNJSPF disputes) would bring the UNAT statute into compliance with the previous General Assembly Resolution.³⁷⁸

118. The General Assembly subsequently adopted resolution 52/166,³⁷⁹ which amended Article 13 of the UNAT statute. The amended Article 13 allowed full compliance with the note sent by the Secretary-General, and extension of the jurisdiction of UNAT to any of the common

that Tribunal is competent to hear complaints submitted by officials of any other intergovernmental international organization approved by the Governing Body of ILO which has addressed to the Director-General of ILO a declaration recognizing, in accordance with its own Constitution or internal administrative rules, the jurisdiction of the Tribunal for that purpose, as well as its rules of procedure.”

³⁷⁶ Ibid., states that: “[s]uch a paragraph, which should be the last paragraph, paragraph (d), of a revised article 13, could read as follows: [...] [t]he competence of the Tribunal may also be extended, with the approval of the General Assembly, to any other international organization or entity established by a treaty and participating in the common system of conditions of service, upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Each such special agreement shall provide that the organization or entity concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that organization or entity and shall include, *inter alia*, provisions concerning its participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal.”

³⁷⁷ A/52/142.

³⁷⁸ A/52/142/Add.1, the Secretary-General notes the following: “[...] 9. [t]he aforementioned competence of the United Nations Administrative Tribunal in Joint Staff Pension Fund cases, which, as noted above, was approved by the General Assembly, is not reflected in the statute of the Tribunal. It is therefore suggested that that statute be brought into conformity with that decision of the General Assembly by adding the following new paragraph, based on article 48 of the Pension Fund Regulations, to article 13 of the Tribunal’s Statute, which would become paragraph (b) of that article: “[t]he Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund arising out of the decision of the United Nations Joint Staff Pension Board submitted to the Tribunal by: “(i) [a]ny staff member of a member organization of the Fund which has accepted the jurisdiction of the Tribunal in Joint Staff Pension Fund cases who is eligible under article 21 of the Pension Fund Regulations as a participant in the Fund, even if his/her employment has ceased, and any person who has acceded to such staff member’s rights upon his death; (ii) [a]ny other person who can show that he is entitled to rights under the Pension Fund Regulations by virtue of the participation in the Fund of a staff member of such member organization.”

³⁷⁹ Adopted on recommendation of the Sixth Committee, without vote.

system adherents.³⁸⁰ Further, the General Assembly noted that they would review the UNAT statute during its 53rd session.³⁸¹

119. By decision 53/430³⁸² of the General Assembly, the further review of the UNAT statute was to be undertaken in 1999 during the 54th session of the General Assembly.³⁸³ During the 54th session of the General Assembly, a review of the statute was begun by the Sixth Committee, and three nations (Ireland, France, and the United Kingdom) submitted proposed changes to the statute. However, there was no action taken on the proposals, nor did the Sixth Committee take any action on the draft. Thus, the General Assembly agreed to provide for further discussion of the issue on the provisional calendar for the next Assembly (session 55).³⁸⁴

F. Organization of the Secretariat

1. IN GENERAL

120. In 1997, the Secretary-General submitted a report on reforming the organization of the Secretariat.³⁸⁵ In this report, the Secretary-General highlighted the new leadership and management structure being implemented and summarized the important measures the Secretary-General was taking and proposing to Member States. The report additionally contained

³⁸⁰ G A resolution 52/166 states the following “(a) [t]he following new paragraphs shall be added as paragraphs 1, 2 and 4: 1. [t]he competence of the Tribunal shall be extended to the staff of the Registry of the International Court of Justice upon the exchange of letters between the President of the Court and the Secretary-General of the United Nations establishing the relevant conditions. 2. [t]he Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of the regulations of the United Nations Joint Staff Pension Fund arising out of the decision of the United Nations Joint Staff Pension Board submitted to the Tribunal by: (a) [a]ny staff member of a member organization of the Pension Fund which has accepted the jurisdiction of the Tribunal in Pension Fund cases who is eligible under article 21 of the regulations of the Fund as a participant in the Fund, even if his employment has ceased, and any person who has acceded to such staff member's rights upon his death; (b) [a]ny other person who can show that he is entitled to rights under the regulations of the Pension Fund by virtue of the participation in the Fund of a staff member of such member organization [...] 4. [t]he competence of the Tribunal may also be extended, with the approval of the General Assembly, to any other international organization or entity established by a treaty and participating in the common system of conditions of service, upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Each such special agreement shall provide that the organization or entity concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that organization or entity and shall include, inter alia, provisions concerning its participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal [...] (b) [t]he text of former article 13 shall become paragraph 3 of amended article 13;”

³⁸¹ G A resolution 52/166.

³⁸² UN Yearbook 1998, p. 1329 states that, “[b]y decision 53/430 of 8 December, the General Assembly, recalling its resolution 52/166 [...], decided to include in the provisional agenda of its fifty-fourth (1999) session the item “Review of the statute of the United Nations Administrative Tribunal”.”

³⁸³ Ibid.

³⁸⁴ See UN Yearbook 1999, p. 1342.

³⁸⁵ A/51/950.

a more detailed discussion of the entirety of the reform measures, as well as more robust explanations for the reforms and recommendations.³⁸⁶ Specifically, the Secretary-General identified that the first challenge of this reform was to ensure that the Secretary-General and senior managers share an understanding and unity of purpose in order to create greater efficiency throughout the Secretariat.³⁸⁷

121. The report further detailed the establishment of a Senior Management Group.³⁸⁸ The primary focus of this group would be to assist the Secretary-General in the process of change and implementing solid management throughout the Secretariat.³⁸⁹ Further, the Secretary-General recommended the establishment of a Deputy Secretary-General post.³⁹⁰ In addition to the creation of a Deputy Secretary-General post, the report discussed a small strategic planning unit to support the Secretary-General. This unit would identify emerging global issues and trends, analyze their implications for the United Nations, and create and submit policy recommendations to the Secretary-General and the Senior Management Group.³⁹¹ The Secretary-General also sought to strengthen the role of the ESC.³⁹²

122. Additionally, a United Nations Development Group was being created at the time of the report. This group was composed of the major United Nations development programmes and funds, as well as other relevant departments and entities. The objectives of this group would be to facilitate joint policy formation and decision-making, encourage cooperation and create more efficient management. Further, this change would be reflected at the regional and country levels as well, and all United Nations development programmes would be integrated into a United Nations Development Assistance Framework.³⁹³

³⁸⁶ Ibid.

³⁸⁷ Ibid., states that: “[t]he first challenge is to enhance the capacity of the Secretary-General and senior managers to achieve greater unity of purpose, coherence of effort, agility and responsiveness throughout the United Nations, including its funds and programmes. The following measures are designed to transform the organization of the Secretariat from its traditional depiction of a disparate collection of units with little strategic focus, to a more coherent horizontal, more strategic agile structure.”

³⁸⁸ Ibid., states that: “membership will include the convenors of the four executive committees, plus several additional senior managers selected by the Secretary General. Chaired by the Secretary-General [...]”

³⁸⁹ Ibid.

³⁹⁰ Ibid.

³⁹¹ Ibid.

³⁹² Ibid.

³⁹³ Ibid.

2. DEPUTY SECRETARY-GENERAL

123. In resolution 52/12B, the General Assembly established the post of Deputy Secretary-General,³⁹⁴ and defined the five primary responsibilities of the position as follows: (1) to assist the Secretary-General in the management of operations in the Secretariat, (2) to act for the Secretary-General in his absence (or other cases decided by the Secretary-General), (3) to assist the Secretary-General in ensuring a coherence of activities and programmes between sectors and institutions and elevating the leadership of the United Nations in the economic and social realms (with a specific focus on developing a reputation in the development field), (4) to represent the Secretary-General at official functions (including conferences, ceremonial occasions, and other events) as determined by the Secretary-General, and (5) to undertake assignments determined by the Secretary-General.³⁹⁵ The Assembly further noted that the Deputy would be appointed by the Secretary-General after consulting with Member States (in accordance with Article 101 of the Charter), and the tenure of the deputy would not exceed that of the Secretary-General.³⁹⁶

3. ECONOMIC AND SOCIAL AFFAIRS

124. In resolution 52/12B, the General Assembly addressed the proposed strengthening of the ESC. The General Assembly invited the ESC to consider reform of its subsidiary bodies, as recommended by the Secretariat, and include a time frame for the implementation of its decisions on those recommendations (as well as those recommendations affecting the ESC directly).³⁹⁷ The General Assembly additionally endorsed the Secretary-General's recommendation to discontinue the High-level Advisory Board on Sustainable Development.³⁹⁸

³⁹⁴ G A resolution 52/12B, para. 1, the General Assembly “[d]ecides to establish the post of Deputy Secretary-General as an integral part of the Office of the Secretary-General, as set out in addendum 1 to the report of the Secretary-General [A/51/950/Add.1.] and in the statement made by the Secretary-General on 4 November 1997 to the open-ended informal consultations of the General Assembly on United Nations reform: measures and proposals, [A/52/585] without prejudice to the mandate of the Secretary-General as provided by the Charter of the United Nations and, in accordance with the existing system of decision-making, with responsibilities delegated by the Secretary-General [...]”

³⁹⁵ G A resolution 52/12B.

³⁹⁶ Ibid.

³⁹⁷ Ibid., paras. 9, 10, the General Assembly “[i]nvites the Economic and Social Council to consider, at its organizational and substantive sessions in 1998, as part of the review of the mandates, composition, functions and working methods of its functional commissions and expert groups and bodies, as mandated by the General Assembly in its resolution 50/227, the recommendations of the Secretary-General relating to the reform of its subsidiary bodies, including a time frame for implementation of its decisions thereon, as well as his recommendations relating to the organization and methods of work of the Council, and to report thereon to the Assembly as early as possible during its fifty-second session; [...] Invites the Economic and Social Council, in consultation with Member States and appropriate intergovernmental regional bodies, to conduct a general review of the regional commissions at its

4. DEVELOPMENT COOPERATION

125. The General Assembly stated that programme and fund management would be enhanced by integration of intergovernmental oversight bodies.³⁹⁹ As such, it requested the ESC to consider arrangements for a closer integration of the governance oversight of the United Nations Development Programme, the United Nations Population Fund and the United Nations Children's Fund through consecutive and/or joint meetings with other Executive Boards (keeping in mind the mandates of the Executive Boards and programmes).⁴⁰⁰

5. HUMANITARIAN AFFAIRS

126. During the period under review, the Secretary-General decided to make significant changes to the coordination of humanitarian assistance. The Secretary-General decided to create an office of the Emergency Relief Coordinator in order to balance the humanitarian assistance operations of the United Nations.⁴⁰¹ This office would replace the Department of Humanitarian Affairs, and the operational responsibilities of the Department would be transferred to other entities, in order to allow for a greater focus on the coordination and advocacy roles of the Department.⁴⁰² Through General Assembly resolution 52/12, the General Assembly welcomed this report of the Secretary-General, and decided to designate the Emergency Relief Coordinator as the United Nations Humanitarian Assistance Coordinator.⁴⁰³ Further, the General Assembly transferred the operational activities of the Relief Coordinator to the United Nations Development Programme. The General Assembly elaborated that the resources for these duties

substantive session of 1998, bearing in mind the relevant provisions of resolution 50/227 and the individual reviews each commission has already carried out, in order to consider the competencies of the regional commissions, taking into account the competencies of global bodies and other regional and subregional intergovernmental bodies, and to submit a report thereon to the General Assembly before the end of its fifty-second session[.]”

³⁹⁸ Ibid.

³⁹⁹ Ibid., para. 12.

⁴⁰⁰ Ibid.

⁴⁰¹ A/51/90, para. 77.

⁴⁰² Ibid.

⁴⁰³ G A resolution 52/12, the General Assembly, “[a]ffirming its determination to strengthen the role, capacity, effectiveness and efficiency of the United Nations and thus improve its performance in order to realize the full potential of the Organization, in accordance with the purposes and principles of the Charter of the United Nations, and to respond more effectively to the needs and aspirations of the Member States, Welcoming the report of the Secretary-General of 14 July 1997 entitled “Renewing the United Nations: a programme for reform”. [...]15. Decides to designate the Emergency Relief Coordinator as the United Nations Humanitarian Assistance Coordinator, who will, *inter alia*, retain responsibility for coordination of natural disaster relief[.]”

were to be maintained in addition and separately to the regular duties of the Programme.⁴⁰⁴ Additionally, the General Assembly established a humanitarian segment of the ESC and requested that the Council expeditiously consider the related arrangements that would have to be made, without prejudice to the work of the other parts of the ESC.⁴⁰⁵

6. ENVIRONMENT AND HUMAN SETTLEMENTS

127. During the close of the period under review, the General Assembly adopted resolution 53/242 regarding the environment and human settlements. In this resolution, the General Assembly requested that the United Nations Environment Programme (UNEP) and the United Nations Centre for Human Settlements (Habitat) coordinate and strengthen their activities (while remaining separate entities).⁴⁰⁶ The General Assembly also supported the proposal of the Secretary-General to establish an environmental management group for the purpose of augmenting inter-agency coordination.⁴⁰⁷

⁴⁰⁴ Ibid., para. 16.

⁴⁰⁵ Ibid., para. 18.

⁴⁰⁶ G A resolution 53/242, para. 4.

⁴⁰⁷ Ibid., para. 5, the General Assembly “[supports] the proposal of the Secretary-General regarding the establishment of an environmental management group for the purpose of enhancing inter-agency coordination in the field of environment and human settlements, and requests the Secretary-General to develop, in consultation with the Member States and members of the Administrative Committee on Coordination, the mandate, terms of reference, appropriate criteria for membership and flexible, cost-effective working methods of the proposed environmental management group and to submit them to the General Assembly for consideration at its fifty-fourth session[.]”