

REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS

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ARTICLE 97

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Table of Contents

	Paragraphs
Text of Article 97	
Introductory Note	1-5
Analytical Summary of Practice	6-50
I. The Staff of the Organization	6-30
A. Staff of the Secretariat	6-25
1. In general	6-21
(a) Changes in the structure of the Secretariat	6-14
(b) Staff Regulations and Rules	15-21
2. Staff governed by special staff rules	22-25
(a) Staff specially engaged for conferences and other short-term service at Headquarters	22-23
(b) Technical cooperation project personnel	24-25
B. Staff of certain organs	26
**1. Military staff committee	
**2. Staff of the United Nations Children's Fund	
**3. Staff of the International Narcotics Control Board	
**4. Staff of the Office of the United Nations High Commissioner for Refugees	
**5. Staff of the United Nations Relief and Work Agency for Palestine Refugees in the near East	

**6.	Staff of the United Nations Institute for Training and Research	
**7.	Staff of the United Nations Conference on Trade and Development	
**8.	Staff of the Joint Inspection Unit	
**9.	Staff of the United Nations Institute for Training and Research	
**10.	Staff of the United Nations Development Programme	
**11.	United Nations University	
**12.	Staff of the United Nations Environmental Programme	
**13.	Staff of the International Civil Service Commission	
**14.	Staff of the United Nations Industrial Development Organization	
**15.	Staff of the United Nations Institute for Disarmament Research	
**16.	Staff of the International Research and Training Institute for the Advancement of Women	
**17.	Staff of the United Nations Research for Social Development	
**18.	United Nations Interregional Crime and Justice Research Institute	
	C. Staff of the Registry of the International Court of Justice	27-28
	D. Registrars of United Nations-assisted international criminal tribunals	29-30
	E. Admission of the International Criminal Court and the Special Tribunal for Lebanon to membership in the United Nations Joint Staff Pension Fund	31
	II. Appointment of the Secretary-General	32-50
	A. Method of appointment	34-44
	1. Nomination of Candidates	35
	2. Recommendation of the Security Council	36-40
	(a) Private meetings	36
	(b) Communiqués	37
	** (c) Communications concerning candidates	
	(d) Number of candidates	38
	** (e) Private consultations among the permanent members of the	

Security Council	
(f) Secret vote	39
(g) Communication of recommendation to the General Assembly	40
**(h) Communication to the candidate	
3. Appointment of the Secretary-General by the General Assembly	41-44
(a) Private meetings	41
(b) Nomination in the General Assembly	42
(c) Appointment by acclamation	43
(d) Installation in office	44
B. Terms of the appointment of the Secretary-General	45-50
1. Length of term of office	45
2. Conditions of service	46-50
(a) Emolument	46-47
(b) Other conditions of service	48-50
**(c) Abstention from governmental service after expiration of the term of office	

TEXT OF ARTICLE 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

INTRODUCTORY NOTE

1. The structure of this study follows that of the previous studies of Article 97 in the *Repertory* and *Supplements* Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9. However, new sub-headings have been added where necessary following the creation of new organs or to reflect a new practice.
2. The analytical summary of practice of the present study is divided into two parts. The first part relates to the staff of the Organization and deals with certain categories of staff and other personnel employed by the United Nations whose conditions of appointment and service are governed by special rules. It also deals with the admission of the International Criminal Court to membership in the United Nations Joint Staff Pension Fund. As in previous Supplements, general questions relating to the appointment and conditions of service of the staff of the Secretariat and of its organization are dealt with under Article 101 of the Charter.
3. In referring to certain organs of the United Nations, the present study follows the practice established in previous studies. The fact that the repertory of practice for Article 97 and that for Article 101 make specific reference to the staff of specific organs of the Organization does not, in anyway, indicate any distinction as to the status of such staff under the Charter.¹ All staff employed by the United Nations form part of the staff of the Organization within the meaning of Article 97 of the Charter.²
4. The second part of the analytical summary below relates to the practice that has been followed with respect to the appointment of the Secretary-General of the United Nations. At the sixty-first session of the General Assembly, on 13 October 2006, Mr. Ban Ki-moon was appointed by acclamation the Secretary-General of the United Nations for a term of office from 1 January 2007 to 31 December 2011.³
5. The functions of the Secretary-General and the scope of his role are dealt with under Articles 98 and 99 of the Charter. Therefore, the practice concerning the role of the Secretary-General as chief administrative officer of the Organization is not examined in the present study but in the *Repertory* and its *Supplements* pertaining to Articles 98 and 99.

¹ The obligations of the members of staff, their conditions of appointment and service, and the general organization of the Secretariat are dealt with in the *Repertory* and its *Supplements* under Articles 100 and 101.

² Although, as noted in *Repertory, Supplement No. 9*, under article 97, in footnote 3: "In practice, however, a distinction is made between the staff of the Secretariat, the staff of the International Court of Justice, and the staff who are recruited for service in subsidiary organs with a temporary mandate or who are financed entirely or largely from voluntary contributions".

³ See General Assembly resolution 61/3 of 13 October 2006.

ANALYTICAL SUMMARY OF PRACTICE

I. THE STAFF OF THE ORGANIZATION

A. Staff of the Secretariat

1. IN GENERAL

(a) Changes in the structure of the Secretariat

6. Building on the package of structural reforms that Secretary-General Kofi Annan suggested in his report entitled “Reviewing the United Nations: A Programme for Reform” in 1997⁴, the Secretary-General submitted another report, entitled “Strengthening of the United Nations: an agenda for further change” in 2002⁵. The 2002 report recommended in particular that the resident coordinator system be strengthened⁶, the management and strategic planning capacity of the Department of Economic and Social Affairs be reinforced⁷ and the relationship between the Department of Political Affairs and the Department of Peacekeeping Operations be more sharply defined to further strengthen the Secretariat’s work in international peace and security⁸. It also reported that the Secretary-General had given more authority to his deputy special representatives in Sierra Leone and Afghanistan⁹.

7. In a 2005 report entitled “In Larger Freedom: Towards Development, Security and Human Rights for All”¹⁰, the Secretary-General expressed the view that, while the structural reforms mentioned above were positive steps in the right direction, “these reforms do not go far enough. If the United Nations is to be truly effective, the Secretariat will have to be completely transformed.”¹¹ In sub-section C of the report, under the section entitled “Strengthening the United Nations”, the Secretary-General proposed a number of reforms to the structure of the Secretariat that, if implemented, would transform the way in which the Secretariat operates.

8. In this 2005 report, the Secretary-General announced that he was “taking steps to realign the Secretariat’s structure to match the priorities outlined in the [“In Larger Freedom” report]. This will entail creating a peacebuilding support office and strengthening support both for mediation ([his] “good offices” function) and for democracy and the rule of law.”¹² Accordingly, a Peacebuilding Support Office (“PBSO”) was established in 2005 and mandated by the World Summit Outcome Document to act as a

⁴ A/51/950, 14 July 1997; see also *Repertory, Supplement No. 9*, under Article 97, at para. 6.

⁵ A/57/387 and Corr.1, 9 September 2002.

⁶ *Ibid.*, at para. 118.

⁷ *Ibid.*, at para. 130.

⁸ *Ibid.*, at para. 126.

⁹ *Ibid.*, at para. 117.

¹⁰ A/59/2005, 21 March 2005.

¹¹ *Ibid.*, at para. 185.

¹² *Ibid.* at para. 189.

secretariat to the Peacebuilding Commission, which was established in December 2005¹³. The PBSO exists as an entity within the Secretariat of the United Nations.

9. In the “In Larger Freedom” report, the Secretary-General also stated that he intended to appoint a “Scientific Adviser to the Secretary-General, who would provide strategic forward-looking scientific advice on policy matters, mobilizing scientific and technological expertise within the United Nations system and from the broader scientific and academic community.”¹⁴ This position was not created during the period under review.

10. In November 2005, the Conduct and Discipline Unit¹⁵ was created to operate within the Department of Peacekeeping Operations and, starting in 2007, the Department of Field Support, with the task of maintaining global oversight of the state of discipline in peacekeeping operations and special political missions.

11. By General Assembly resolution 59/276 of 23 December 2004, the Department of Safety and Security was newly established within the Secretariat in order to create a unified and strengthened security management system which would ensure the safety and security of United Nations staff, operations and premises at United Nations Headquarters and main duty stations, as well as in the field.

12. By resolution 60/248 of 23 December 2005, the General Assembly approved the establishment of an Ethics Office. The Ethics Office was accordingly established by a Secretary-General’s bulletin entitled “Ethics Office – establishment and terms of reference” (ST/SGB/2005/22 of 30 December 2005). The objective of that Office is to assist the Secretary-General in ensuring that all staff members observe and perform their functions consistent with the highest standards of integrity required by the Charter of the United Nations through fostering a culture of ethics, transparency and accountability.¹⁶

13. By a Secretary-General’s bulletin of 27 June 2008, the Department of Disarmament Affairs was converted into the Office for Disarmament Affairs (ST/SGB/2008/8).

14. The Office of the Counter-Terrorism Implementation Task Force was established within the Department of Political Affairs following the adoption of resolution 64/235 of 24 December 2009 by which the General Assembly requested the Secretary-General “to provide the resources necessary to finalize the institutionalization of the Counter-Terrorism Implementation Task Force without delay in order to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system.”

(b) Staff Regulations and Rules

15. Members of the staff appointed by the Secretary-General are governed by the Staff Regulations adopted by the General Assembly and, in pursuance of the Staff Regulations, by the Staff Rules enacted by the Secretary-General. During the period under review, the

¹³ The Peacebuilding Commission was created in December 2005 with the adoption of Security Council resolution 1645 of 20 December 2005 and General Assembly resolution 60/180 of 20 December 2005 as a subsidiary body of both Organs.

¹⁴ A/59/2005, 21 March 2005, at para. 189.

¹⁵ Originally named the Conduct and Discipline Team.

¹⁶ ST/SGB/2005/22, at section 1.2.

Staff Regulations and Rules were amended by the General Assembly several times.¹⁷ Prior to 2009, these amendments primarily related to the revised salary scales for staff in the Professional and higher categories¹⁸, the extension of the financial disclosure requirement to all staff members from the D-1 or L-6 level and above, as part of the provision on conflict of interest,¹⁹ and the clarification that sexual exploitation and sexual abuse constitute serious misconduct²⁰.

16. The General Assembly adopted resolution 63/271 on 7 April 2009 having considered the Report of the Secretary-General²¹ and the Report of the Advisory Committee on Administrative and Budgetary Questions (“the Advisory Committee”)²², both entitled “Amendments to the Staff Regulations”. This resolution approved, subject to further amendments stated in the annex to the resolution, the amendments to the Staff Regulations contained in the Report of the Secretary-General. As a consequence, regulations 1.1(e), 1.2(n), 3.2(a), 4.4, 4.5(a) and (b), 5.3, 6.2, 7.2, 8.1(a), 8.2, 9.1, 9.2, 9.3(a) and (b), Article X, Article XI (Regulation 11.1(a)), Annex I (paragraph 6), Annex II, and Annex III (paragraphs (c), (d) and (e)) of the Staff Regulations were amended, effective 1 July 2009²³. Some of the amendments were made to reflect the discontinuation of the 100, 200 and 300 series,²⁴ while others were designed to implement the new streamlined contractual arrangements, namely, temporary, fixed-term and continuing,²⁵ in line with resolution 63/250 of 24 December 2008.

17. More specifically, the amendment to regulation 3.2(a) provides that the education grant is payable up to the end of the fourth year of post-secondary studies. The amendment to regulation 6.2 concerning social security reflects the introduction of paternity leave at the United Nations Secretariat. The amendment to regulation 9.3 provides for the termination, in the interest of the good administration of the Organization, of the continuing appointment of a staff member, without the consent of the staff member.

18. The amendment to Article X, concerning disciplinary measures, contains the text approved by the General Assembly resolution 63/253 of 24 December 2008, entitled “Administration of justice at the United Nations.” Pursuant to that resolution, a new two-tiered formal system of administration of justice, with a trial and an appellate jurisdiction

¹⁷ See resolution 55/223 of 23 December 2000; resolution 55/258 of 14 June 2001, resolution 56/244 of 24 December 2001, resolution 57/285 of 20 December 2002, resolution 57/310 of 18 June 2003, resolution 59/268 of 23 December 2004, resolutions 60/238 and 60/248 of 23 December 2005, resolution 61/239 of 22 December 2006, resolution 62/227 of 22 December 2007, resolution 63/251 of 24 December 2008 and resolution 63/271 of 7 April 2009.

¹⁸ See ST/SGB/2009/6, 27 May 2009 and ST/IC/2009/6, 15 January 2009; ST/SGB/2008/4, 1 January 2008, Annex I; ST/SGB/2007/4, 1 January 2007, Annex I; ST/SGB/2006/4, 1 January 2006, Annex I; ST/SGB/2005/5, 15 March 2005, Annex I; ST/SGB/2003/10, 11 August 2003; ST/SGB/2003/5, 7 February 2003, Annex I; and ST/IC/2002/8, 5 March 2002, Annex I; ST/SGB/2002/13, 1 November 2002; and ST/SGB/2001/8, 27 September 2001, Annex I.

¹⁹ See ST/SGB/2006/4, 1 January 2006, at p. iii.

²⁰ See ST/SGB/2006/4, 1 January 2006, at p. iii.

²¹ A/63/694, 28 January 2009.

²² A/63/754, 10 March 2009.

²³ ST/SGB/2009/7, 16 June 2009.

²⁴ See the amendments to regulation 1.1(e) concerning the scope of application of the Staff Regulations, regulation 1.2(n) concerning the scope of application of certain financial disclosure requirements and regulation 4.4 concerning the limitation of eligibility to apply for vacant post to internal candidates.

²⁵ See GA resolution 63/250, section II, paragraph 2. See also the amendments to regulation 4.5 concerning the term of appointment of staff, regulation 9.3 concerning separation from service, Annex II concerning letters of appointment and Annex III concerning termination indemnity.

(the United Nations Dispute and Appeals Tribunals), was established and became operational on 1 July 2009.²⁶ The amendment to Article XI concerning appeals reflects the Statute of the United Nations Dispute Tribunal, as approved by the General Assembly in the same resolution.

19. The amendment to Annex II reflects the decision of the General Assembly in section II, paragraph 21, of its resolution 63/250, that there shall be no expectations, legal or otherwise, of renewal or conversion of a fixed-term contract, irrespective of the length of service. The scope and purpose of the Staff Regulations was also amended, replacing the term “personnel” with “human resources”, “to harmonize the language of the Staff Regulations with the current terminology in effect at the United Nations.”²⁷

20. Following the Secretary-General’s announcement in August 1994 that a United Nations “Code of Conduct” would be promulgated as part of the establishment of a transparent and effective system of accountability and the subsequent incorporation of a United Nations Code of Conduct in article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules²⁸, the Secretary-General issued a bulletin entitled “Status, basic rights and duties of United Nations staff members” on 1 November 2002, which abolished and replaced the previous version of the bulletin (ST/SGB/1998/19), dated 10 December 1998. The main purposes of the bulletin are “to assist staff members in understanding their status, basic rights and duties as set out in the text of article IX of the Staff Regulations” and to “ensure that all United Nations staff are made aware of the ‘Standards of conduct for the international civil service’ that were adopted by the International Civil Service Commission in 2001”²⁹. The bulletin also updated the text of the commentary on article 1 of the Staff Regulations and chapter 1 of the 100 series of the Staff Rules previously contained in document ST/SGB/1998/19 by replacing all former references to the 1954 standards by references to the 2001 standards of conduct³⁰.

21. Several amendments were made to the staff rules during the period under review and in particular with regard to daily subsistence allowance,³¹ sick leave,³² education grant, home leave, travel expenses and advances, terminal expenses and excess baggage.³³ Paternity leave was included in the Staff Rules to reflect the new entitlement to paternity leave, as approved by General Assembly resolution 59/268³⁴.

2. STAFF GOVERNED BY SPECIAL STAFF RULES

(a) *Staff specially engaged for conferences and other short-term service at Headquarters*

²⁶ See also Supplement No. 10 on Articles 100 and 101 of the United Nations Charter.

²⁷ General Assembly resolution 63/271 of 7 April 2009, at para. 7.

²⁸ See *Repertory, Supplement No. 9*, under Article 97, at para. 10.

²⁹ ST/SGB/2002/13, preamble and para. 1.1, 1 November 2002.

³⁰ *Ibid.*, at para. 1.2.

³¹ A/57/126, 2 July 2002, at paras. 5 and 7.

³² A/59/213, 5 August 2004, at para. 9.

³³ A/62/185, 3 August 2007, at paras. 9 to 14. See also A/58/283, 14 August 2003, at para 8.

³⁴ Section I, point I. See also A/60/174, 1 August 2005, at para. 9.

22. During the period under review, the staff specially engaged for conferences and other short-term service at Headquarters, as well as away from Headquarters, were governed by the 300 series of the Staff Rules. Several amendments were made to the Staff Rules during this period; these related to subsistence and special post allowance,³⁵ sick leave and financial responsibility³⁶.

23. In December 2008, the General Assembly adopted resolution 63/250, which approved new contractual arrangements that would bring all appointments under one set of Staff Rules³⁷ with the aim of streamlining United Nations contractual arrangements and harmonizing conditions of service, as stated in the General Assembly's earlier resolution 62/248.³⁸ Paragraph 2 of section II of the resolution had the effect of discontinuing the 100, 200 and 300 series. Although the 100 and 200 series were abolished in June 2009³⁹, the 300 series was not fully abolished during the period under review. On 16 June 2009, the Secretary-General issued a bulletin on the Staff Rules, which stated that the 300 series would remain in force: "[u]ntil 31 December 2010 with respect to staff members of or administered by the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA) and the United Nations Office for Project Services (UNOPS) who are holding an appointment of limited duration on 30 June 2009" and "[u]ntil 30 September 2009 with respect to staff members who...will exceptionally continue to hold appointments of limited duration with the Department of Field Support after 1 July 2009."⁴⁰

(b) *Technical cooperation project personnel*

24. During the period under review, staff members specifically recruited for service with technical cooperation projects were governed by the 200 series of the Staff Rules.

25. As noted above, following the adoption of General Assembly resolution 63/250 of 24 December 2008, the 200 series of the Staff Rules together with the 100 series were abolished on 16 June 2009, effective 1 July 2009.⁴¹

B. Staff of certain organs

26. **1. MILITARY STAFF COMMITTEE⁴²
 **2. STAFF OF THE UNITED NATIONS CHILDREN'S FUND⁴³
 **3. STAFF OF THE INTERNATIONAL NARCOTICS CONTROL BOARD⁴⁴
 **4. STAFF OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES⁴⁵

³⁵ A/57/126, 2 July 2002, at paras. 8 and 9.

³⁶ ST/SGB/2005/3, 1 January 2005, at p. iii, para. 1.4(a) and 1.4(b).

³⁷ See resolution 63/250 of 24 December 2008, section II, para. 2.

³⁸ See resolution 62/248 of 3 April 2008. See also *Repertory, Supplement No. 9*, under Article 97, para. 13.

³⁹ ST/SGB/2009/7, 16 June 2009.

⁴⁰ *Ibid.*

⁴¹ ST/SGB/2009/7, 16 June 2009.

⁴² See *Repertory*, under Article 97, paras. 8 – 10.

⁴³ See *Repertory*, under Article 97, paras. 11 - 13.

⁴⁴ See *Repertory, Supplement No. 3*, under Article 97, paras. 14 – 18.

⁴⁵ See *Repertory*, under Article 97, paras. 23 and 25.

- **5. STAFF OF THE UNITED NATIONS RELIEF AND WORK AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST⁴⁶
- **6. STAFF OF THE UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH⁴⁷
- **7. STAFF OF THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT⁴⁸
- **8. STAFF OF THE JOINT INSPECTION UNIT⁴⁹
- **9. STAFF OF THE UNITED NATIONS CAPITAL DEVELOPMENT FUND⁵⁰
- **10. STAFF OF THE UNITED NATIONS DEVELOPMENT PROGRAMME⁵¹
- **11. UNITED NATIONS UNIVERSITY⁵²
- **12. STAFF OF THE UNITED NATIONS ENVIRONMENTAL PROGRAMME⁵³
- **13. STAFF OF THE INTERNATIONAL CIVIL SERVICE COMMISSION⁵⁴
- **14. STAFF OF THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION⁵⁵
- **15. STAFF OF THE UNITED NATIONS INSTITUTE FOR DISARMAMENT RESEARCH⁵⁶
- **16. STAFF OF INTERNATIONAL RESEARCH AND TRAINING INSTITUTE FOR THE ADVANCEMENT OF WOMEN⁵⁷
- **17. STAFF OF THE UNITED NATIONS RESEARCH INSTITUTE FOR SOCIAL DEVELOPMENT⁵⁸
- **18. UNITED NATIONS INTERREGIONAL CRIME AND JUSTICE RESEARCH INSTITUTE⁵⁹

C. Staff of the Registry of the International Court of Justice

27. Article 28, paragraph 4, of the Rules of Court states:

“The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court.”

⁴⁶ See *Repertory*, under Article 97, paras. 26 and 27; and *Supplement No. 1*, para 17. Pursuant to paragraph 9 (b) of G A resolution 302 (IV), the Commissioner-General of the United Nations Relief and Work Agency for Palestine Refugees in the Near East (UNRWA) selects and appoints its staff in accordance with general arrangements made in agreement with the Secretary-General, including such Staff Regulations and Rules of the United Nations that the Commissioner-General and the Secretary-General shall agree are applicable, and to the extent possible utilizes the facilities and assistance of the Secretary-General. UNRWA staff regulations and rules apply to both international and locally recruited staff.

⁴⁷ See *Repertory*, *Supplement No. 3*, under Article 101, para. 106. See also *Repertory*, *Supplement No. 6*, under Article 97, para. 19.

⁴⁸ See *Repertory*, *Supplement No. 3*, under Article 101, paras. 78 and 79.

⁴⁹ See *Repertory*, *Supplement No. 4*, under Article 97, para. 20; and *Supplement No. 5*, para. 20.

⁵⁰ See *Repertory*, *Supplement No. 4*, under Article 97, paras. 18 and 19.

⁵¹ See *Repertory*, *Supplement No. 5*, under Article 97, para. 15.

⁵² See *Repertory*, *Supplement No. 5*, under Article 97, paras. 20 and 21.

⁵³ See *Repertory*, *Supplement No. 5*, under Article 97, paras. 22 – 24.

⁵⁴ See *Repertory*, *Supplement No. 5*, under Article 97, para. 25.

⁵⁵ See *Repertory*, *Supplement No. 6*, under Article 97, para. 21; see also *Supplement No. 7*, under Article 97, para. 24. Following the entry into force of the Constitution of the United Nations Industrial Development Organization (UNIDO) on 21 June 1985 and the Relationship Agreement between the United Nations and UNIDO on 12 December 1985, UNIDO became a specialized agency and ceased to be a subsidiary organ of the General Assembly.

⁵⁶ See *Repertory*, *Supplement No. 6*, under Article 97, paras. 23 and 24.

⁵⁷ See *Repertory*, *Supplement No. 6*, under Article 97, para. 25.

⁵⁸ See *Repertory*, *Supplement No. 3*, under Article 97, paras. 22-25.

⁵⁹ See *Repertory*, *Supplement No. 8*, under Article 97, para. 20.

28. During the period under review, on 5 December 2000, 24 September 2002, 19 May 2006 and 1 July 2009, the International Court of Justice adopted amendments to the Staff Regulations for the Registry of the International Court of Justice.⁶⁰

D. Registrars of United Nations-assisted international criminal tribunals

29. Following a request from the Security Council by its resolution 1315 of 14 August 2000, the Secretary-General negotiated an agreement with the Government of Sierra Leone to create an independent special court. The Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone (with Statute) was concluded on 16 January 2002 and entered into force on 12 April 2002. Article 4 (1) of the Agreement provides that “[t]he Secretary-General, in consultation with the President of the Special Court, shall appoint a Registrar” and that “[t]he Registrar shall be a staff member of the United Nations”.

30. Following a request from the Security Council by its resolution 1664 of 29 March 2006, the Secretary-General negotiated an agreement with the Government of Lebanon aimed at establishing a tribunal of an international character. The Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon was signed by both parties but since there was no prospect of entry into force, the Security Council, by resolution 1757 of 30 May 2007, decided that “[t]he provisions of the annexed document, including its attachment, on the establishment of a Special Tribunal for Lebanon shall enter into force on 10 June 2007”. Article 4 (2) of the document annexed to resolution 1757 provides that “[t]he Secretary-General shall appoint a Registrar” and that “[t]he Registrar shall be a staff member of the United Nations.”

E. Admission of the International Criminal Court and the Special Tribunal for Lebanon to membership in the United Nations Joint Staff Pension Fund

31. By resolution 58/262 of 23 December 2003 and having considered the note by the Secretary-General on the admission of the International Criminal Court to membership in the United Nations Joint Staff Pension Fund (“UNJSPF”) ⁶¹ and the related report of the Advisory Committee on Administrative and Budgetary Questions⁶², the General Assembly admitted the International Criminal Court to membership in the United Nations Joint Staff Pension Fund, in accordance with article 3, paragraphs (b) and (c), of the Regulations of the Fund, with effect from 1 January 2004. The Special Tribunal for Lebanon was also admitted to the UNJSPF during the period under review, in 2008, with effect from 1 January 2009.⁶³

⁶⁰ http://www.icj-cij.org/registry/index.php?p1=2&p2=3&p3=1&PHPSESSID=#_ftn4, accessed on 26 September 2013.

⁶¹ See A/C.5/58/13, 29 October 2003.

⁶² See A/58/545, 31 October 2003.

⁶³ A/63/9, paragraph 343

II. APPOINTMENT OF THE SECRETARY-GENERAL

32. During the period under review, the General Assembly adopted resolution 60/286 of 8 September 2006 on the revitalization of the Assembly⁶⁴. Chapter 2 of the Annex to the resolution recommended principles for the selection of the new Secretary-General. As a preliminary matter, paragraph 17 recalled that Article 97 and the provisions of General Assembly resolutions 11(I) of 24 January 1946 and 51/241 of 31 July 1997 were relevant to the role of the General Assembly in appointing the Secretary-General, upon the recommendation of the Security Council. Then, paragraphs 18 to 22 of the Annex contained a number of proposals that would make the selection process of the Secretary-General more transparent, inclusive and efficient. Paragraph 18 of the Annex to resolution 60/286 “emphasize[d]...the need for the process of selection of the Secretary-General to be inclusive of all Member States and made more transparent and that, in the course of the identification and appointment of the best candidate for the post of Secretary-General, due regard should be given to regional rotation and gender equality”.

33. Paragraph 21 of the Annex to resolution 60/286 further stated that “the Secretary-General should be appointed as early as possible, preferably no later than one month before the date on which the term of the incumbent expires” so as to “ensure a smooth and efficient transition” between incumbents of the post. This stipulation echoed precisely the language of, and stance taken by, the General Assembly in resolution 51/241 of 31 July 1997, paragraph 61.

A. Method of appointment

34. As the term of office of Mr. Kofi Annan was due to expire on 31 December 2006, the appointment of the Secretary-General of the United Nations was included in the agenda of the sixty-first session of the General Assembly in 2006.

1. NOMINATION OF CANDIDATES

35. From 6 June to 20 September 2006, several Member States nominated candidates for the post of Secretary-General of the United Nations. In total, seven candidates were nominated.⁶⁵

2. RECOMMENDATION OF THE SECURITY COUNCIL

(a) Private meetings

36. In accordance with rule 48 of the provisional rules of procedure of the Security Council, the Council held a private meeting on 9 October 2006 in order to consider the question of the recommendation to the General Assembly for the appointment of the Secretary-General of the United Nations.⁶⁶

⁶⁴ The resolution resulted from the Report of the Ad Hoc Working Group on the Revitalization of the General Assembly, A/60/999, 5 September 2006.

⁶⁵ S/2006/369, 6 June 2006; S/2006/480, 3 July 2006; S/2006/492, 5 July 2006; S/2006/524, 13 July 2006; S/2006/708, 5 September 2006; S/2006/744, 15 September 2006; S/2006/751, 20 September 2006.

⁶⁶ See S/PV.5547, 9 October 2006.

(b) Communiqués

37. In accordance with rule 55 of the provisional rules of procedure of the Security Council, an official communiqué was issued at the close of the 5547th meeting of the Council on 9 October 2006. The communiqué stated that the Council had considered the question of the recommendation for the appointment of the Secretary-General of the United Nations, and that the Council recommended to the General Assembly that Mr. Ban Ki-moon be appointed Secretary-General of the United Nations for a term of office from 1 January 2007 to 31 December 2011.⁶⁷

*** (c) Communications concerning candidates**(d) Number of candidates*

38. The Council followed the practice of recommending only one candidate.

*** (e) Private consultations among the permanent members of the Security Council**(f) Secret vote*

39. In accordance with previous practice,⁶⁸ the votes taken in the Security Council on the recommendation for the appointment of the Secretary-General of the United Nations were by secret ballot.

(g) Communication of recommendations to the General Assembly

40. The President of the Security Council, by a letter dated 9 October 2006, informed the President of the General Assembly that the Security Council had adopted by acclamation resolution 1715 (2006) recommending that the General Assembly appoint Mr. Ban Ki-moon as Secretary-General of the United Nations for a term of office from 1 January 2007 to 31 December 2011.⁶⁹

*** (h) Communication to the candidate*

3. APPOINTMENT OF THE SECRETARY-GENERAL BY THE GENERAL ASSEMBLY

(a) Private meetings

41. In accordance with previous practice, the Secretary-General, at the sixty-first session of the General Assembly in 2006, was appointed in a public meeting, and not in private as provided by rule 141 of the rules of procedure of the General Assembly.⁷⁰

⁶⁷ *Ibid.*

⁶⁸ See General Assembly resolution 11(I) of 24 January 1946, paragraph 4(d).

⁶⁹ A/61/501, 9 October 2006.

⁷⁰ A/61/PV.31, 13 October 2006.

(b) Nomination in the General Assembly

42. At the 31st plenary meeting of the sixty-first session of the General Assembly, the President of the General Assembly informed the Assembly of the letter that he had received from the President of the Security Council, recommending the appointment of Mr. Ban Ki-moon as Secretary-General of the United Nations for a term of office from 1 January 2007 to 31 December 2011.⁷¹ In connection with the recommendation, and following previous practice, the President of the General Assembly drew attention to draft resolution A/61/L.3, which was “made available on the initiative of the Chairman of the Group of Asian States and which enjoy[ed] the support of the other four regional groups”, regarding the appointment of Mr. Ban Ki-moon as Secretary-General of the United Nations for a term of office from 1 January 2007 to 31 December 2011.⁷²

(c) Appointment by acclamation

43. On 13 October 2006, at the sixty-first session of the General Assembly, draft resolution A/61/L.3 concerning the appointment of Mr. Ban Ki-moon as the Secretary-General was adopted by acclamation as resolution 61/3.⁷³

(d) Installation in office

44. Following the adoption of the General Assembly resolution appointing the Secretary-General and the statement by the President of the General Assembly, the Chief of Protocol escorted Mr. Ban Ki-moon to the platform. The President of the General Assembly informed Mr. Ban Ki-moon officially of his appointment as Secretary-General and administered the oath. The President of the General Assembly further invited him to address the Assembly. The newly appointed Secretary-General made a statement in which he expressed his gratitude to the members of the Security Council and to the General Assembly.⁷⁴

B. Terms of the appointment of the Secretary-General

1. LENGTH OF TERM OF OFFICE

45. In accordance with the usual practice of the United Nations, the General Assembly appointed Mr. Ban Ki-moon to be Secretary-General for a period of five years, from 1 January 2007 to 31 December 2011.

⁷¹ *Ibid.*, at p. 1.

⁷² *Ibid.*, at p. 2.

⁷³ *Ibid.*, at p. 2.

⁷⁴ *Ibid.* at pp. 2 and 9-11.

2. CONDITIONS OF SERVICE

(a) Emoluments

46. The salary of the Secretary-General was revised once during the period under review. By adoption of resolution 57/285 of 20 December 2002, the General Assembly approved differentiated salary increases in the salary scale for staff in the Professional and higher categories as follows: 1.3 per cent for P-4, 2.6 per cent for P-5, 9.1 per cent for D-1 and 6.3 per cent for D-2 and above, effective 1 January 2003.⁷⁵ Based on the approved 6.3 per cent increase in the salary scale of staff at the D-2 level and above, and also as a result of the increase in pensionable remuneration for staff in the Professional and higher categories, promulgated by the International Civil Service Commission,⁷⁶ the Advisory Committee on Administrative and Budgetary Questions (the "Advisory Committee") made several recommendations concerning the revised salary of the Secretary-General. These recommendations were contained in the report submitted by the Advisory Committee to the General Assembly on 11 March 2003.⁷⁷ Applying the new salary scale to the remuneration of the Secretary-General, the Advisory Committee recommended that the net salary of the Secretary-General be increased from \$177,100 to \$188,257 effective 1 January 2003; and the post adjustment be increased from \$81,997 to \$87,163 effective 1 January 2003.⁷⁸ The total net remuneration (net salary plus post adjustment) of the Secretary-General would therefore increase from \$259,097 to \$275,420, effective 1 January 2003.⁷⁹

47. In its resolution 57/310 of 18 June 2003, the General Assembly concurred with the recommendation of the Advisory Committee concerning the salary of the Secretary-General as set out above.⁸⁰

(b) Other conditions of service

48. The Advisory Committee also made a recommendation with regard to the retirement allowance of the Secretary-General, in response to the new salary scale approved by the General Assembly in its resolution 57/285 of 20 December 2002. Pursuant to established practice according to which the retirement allowance was to be set at an amount equivalent to 50 percent of the net remuneration, the Advisory Committee recommended that the retirement benefit of the Secretary-General be increased from \$129,548 to \$137,710 effective 1 January 2003.⁸¹

49. The General Assembly concurred with the recommendation of the Advisory Committee concerning the retirement allowance of the Secretary-General in resolution 57/310 of 18 June 2003.⁸²

⁷⁵ See A/57/7/Add.25 of 11 March 2003, para. 6.

⁷⁶ A/57/7/Add.25 of 11 March 2003, paras. 6 and 8.

⁷⁷ A/57/7/Add.25 of 11 March 2003.

⁷⁸ A/57/7/Add.25 of 11 March 2003, paras. 1, 7, 9.

⁷⁹ A/57/7/Add.25 of 11 March 2003, paras. 1, 7, 9.

⁸⁰ General Assembly resolution 57/310 of 18 June 2003, para. 1.

⁸¹ A/57/7/Add.25 of 11 March 2003, paras. 8-9.

⁸² General Assembly resolution 57/310 of 18 June 2003, para. 1.

50. On 20 February 2007, the Office of Legal Affairs issued a memorandum to the Assistant Secretary-General, Office of Human Resources Management, regarding the US Congressional inquiry on the former Secretary-General's retirement allowance and pension benefits. In the view of the Office of Legal Affairs, given the fact that the exact amount of the Secretary-General's salary and retirement allowance had been set out in General Assembly resolutions which are available to the public, there was no legal objection to providing this information to the Permanent Mission of the United States to the United Nations without seeking prior permission of the former Secretary-General. The Office of Legal Affairs noted, however, that Rule B.4 of the Administrative Rules of the United Nations Joint Staff Pension Fund stipulated that "[i]nformation provided by or in respect of a participant or beneficiary under the Regulations or these Rules *shall not be disclosed without written consent or authorization by the participant or beneficiary concerned*, except in response to a court order or a request from a judicial or civil authority in the context of divorce or family maintenance obligations" (emphasis added). On that basis, the Office of Legal Affairs concluded that the Organization was not in a position to provide the Permanent Mission of the United States with any information regarding the amount of pension benefits the former Secretary-General might have been entitled to as a former staff member of the Organization without having received his prior written consent.⁸³

*** (c) Abstention from governmental service after expiration of the term of office*

⁸³ See *United Nations Juridical Yearbook*, 2007, pp. 462-464.