

# ARTICLE 97

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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 closely that of the previous Repertory studies of Article 97. A few new subheadings have been added under section I B to cover certain organs set up during the period under review. Several subheadings under Section II have been omitted because of the absence of new material during this period.

ANALYTICAL SUMMARY OF PRACTICE

I. THE STAFF OF THE ORGANIZATION

A. Staff of the Secretariat

*1. In general*

2. Several amendments to the Staff Regulations of the United Nations were adopted by the General Assembly at its eleventh, 1/ twelfth 2/ and thirteenth 3/ sessions, and there were consequent alterations in some of the Staff Rules. An account of the Staff Regulations and Staff Rules is given in the previous Repertory studies of Articles 100 and 102 and under Article 101 in this Supplement.

*2. Staff governed by special staff rules*

a. STAFF SPECIFICALLY ENGAGED FOR CONFERENCES AND OTHER  
SHORT-TERM SERVICE AT HEADQUARTERS

3. The position of staff employed for conference and other short-term services remained the same during the period under review, but the rules concerning their salary rates and sick leave entitlement were amended. 4/

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1/ G A resolution 1095 (XI).  
2/ G A resolutions 1225 (XII), 1234 (XII).  
3/ G A resolution 1295 (XIII).  
4/ ST/SGB/94/Add.2/Amend.4-7.

## b. TECHNICAL ASSISTANCE PROJECT PERSONNEL

4. The Staff Rules 5/ applicable to experts and other persons internationally recruited specifically for service with the Expanded Programme of Technical Assistance were amended 6/ during the period covered by this Supplement. These rules incorporated conclusions reached by the General Assembly with a view to reconciling conditions of service of persons employed by the United Nations or the specialized agencies, regardless of the programmes upon which they were employed. 7/

c. DISPATCHERS AND GUIDES IN THE VISITORS' SERVICE  
AT HEADQUARTERS

5. The special staff rules 8/ applicable to dispatchers and guides in the Visitors' Service were amended, 9/ with effect from 1 November 1958.

## d. SPECIAL INTERNES

6. The Advisory Committee on Administrative and Budgetary Questions, in its twelfth report, 10/ approved the proposals in the report 11/ of the Secretary-General. These proposals were that (a) the special interne programme should be maintained in 1957 at the same level as in 1955/56, namely, twenty internships for a period of one year; (b) the special internes should continue to be assigned to duty with the guided tour programme of the Visitors' Service, but such duty should not exceed a total of four months in duration. Though the Committee expressed doubts on certain aspects of the programme, it recommended 12/ funds for it.

## B. Staff of certain organs

## 1. Military Staff Committee

7. During the period under review, the question of the integration of the secretariat of the Military Staff Committee with the United Nations Secretariat continued to engage the attention of the General Assembly. At the eleventh session of the General Assembly, a draft resolution 13/ submitted in the Fifth Committee by India and New Zealand, and amended 14/ by the United States, would request the Secretary-General to study the practical, legal and other aspects of the question. The views expressed by representatives concerning the draft resolution as amended were summarized in the report 15/ of the Fifth Committee as follows:

5/ Rules 201.1 to 212.5 (ST/SGB/94/Add.3/Rev.1), amended by ST/SGB/104.

6/ ST/SGB/108, 28 May 1957; ST/SGB/108/Amend.1, 29 May 1957; ST/SGB/108/Amend.2, 11 July 1957; ST/SGB/109, 16 Dec. 1957 (all mimeographed). ST/SGB/109 superseded all others in force.

7/ ST/SGB/109 (mimeographed).

8/ Rules 401.1-412.7 (ST/SGB/94/Add.4; mimeographed).

9/ ST/SGB/Staff Rules/4.

10/ G A (XI), Annexes, vol. I, a.i. 43, p. 3, A/3356, paras. 2-4.

11/ *Ibid.*, p. 43, A/C.5/661, paras. 10-13.

12/ *Ibid.*, p. 3, A/3356, para. 4.

13/ G A (XI), Annexes, vol. I, a.i. 43, p. 84, A/C.5/L.432.

14/ G A (XI), 5th Com., 565th mtg., para. 17.

15/ G A (XI), Annexes, vol. I, a.i. 43, p. 85, A/3550, para. 130.

"In the discussion of the draft resolution several delegations stated that they would vote for the proposal, for reasons they had given when, on prior occasions, the Fifth Committee had considered the question of integration of the secretariat of the Military Staff Committee. The representative of the United States indicated that though his delegation was not opposed to the draft resolution as amended, which did not prejudge the question, it did consider that for reasons of principle which should not be departed from, the secretariat of the Military Staff Committee should not be integrated with the United Nations Secretariat, although there was no reason why its staff resources could not be placed at the disposition of the United Nations Secretariat whenever possible. The representative of the USSR stated that his delegation would vote against the draft resolution. The question was of importance in relation to the implementation of Article 47 of the Charter and was closely connected with the work of the Security Council. His delegation felt that the work of the Secretariat of the Military Staff Committee was substantial, and did not see the usefulness of the study proposed."

8. Upon the recommendation of the Fifth Committee, the General Assembly adopted resolution 1098 (XI), which read as follows:

"The General Assembly,

"Noting the views expressed by the Advisory Committee on Administrative and Budgetary Questions that the integration of the secretariat of the Military Staff Committee with the United Nations Secretariat is desirable in the interest of a sound and economical administration,

"Noting that the provisional rules of procedure of the Military Staff Committee provide for the existence of the secretariat of the Committee as a separate and independent unit,

"Noting the views expressed by certain delegations in the Fifth Committee in favour of the integration of the secretariat of the Military Staff Committee with the United Nations Secretariat,

"Requests the Secretary-General to study the question of the integration of the secretariat of the Military Staff Committee with the United Nations Secretariat in all its practical, legal and other aspects, and to submit to the Fifth Committee at the twelfth session of the General Assembly a report on those aspects and on the steps which would be necessary to effect the integration."

9. In accordance with the above resolution, the Secretary-General submitted a report 16/ at the twelfth session of the General Assembly on the legal, administrative and financial problems which would ensue from an attempt to change the status of the secretariat of the Military Staff Committee. According to this report, one of the legal questions which would thus arise was concerned with powers relating to the administration of the Secretariat of the United Nations. It was stated that such powers were, under the Charter, "specifically vested only in the Secretary-General and the General Assembly". 17/ It was pointed out, 18/ however, that there might be certain areas relating to the Secretariat where the advice or instructions of certain organs would be required. Such areas would tend to relate more to methods of working

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16/ G A (XII), Annexes, a.i. 41, p. 15, A/C.5/709.

17/ Ibid., para. 30.

18/ Ibid., para. 33.

than to issues of basic staff policy. Accordingly, the Secretary-General suggested two alternatives by which the General Assembly might deal with the question: 19/

"... In the first place, the Assembly could decide that the staff would be fully integrated in the Secretariat, on the understanding that it would be the responsibility of the Secretary-General to provide the Military Staff Committee with all the services necessary for its due functioning. Alternatively, if the first course were considered to be too far-reaching in the direction of integration, the Assembly could decide to retain the civilian staff as a separate unit for servicing the Military Staff Committee, on the understanding that the Secretary-General would have full authority under the normal application of the Staff Regulations in administering that unit; this authority would include the appointment and the conditions of service of the staff, and also its assignment and utilization consistent with the requirements of the service."

The report of the Secretary-General noted 20/ that neither of these alternatives would preclude the Security Council or the Military Staff Committee from adopting rules imposing special conditions, provided that they were compatible with the Charter and the Staff Regulations and pertinent to the exercise of its functions.

10. The Advisory Committee on Administrative and Budgetary Questions, in its report, 21/ expressed the view that "considerations of economy, efficiency and sound administration clearly argue in favour of the integration of the staff of the Military Staff Committee with the Secretariat of the United Nations".

11. Observations by members of the Fifth Committee were summarized in its report as follows: 22/

"37. The Advisory Committee in its report, which was confined to the administrative and budgetary aspects of the matter, expressed the view (para. 5) that considerations of economy, efficiency and sound administration clearly argued in favour of the integration of the staff of the Military Staff Committee with the Secretariat of the United Nations. The Committee added (para. 6) that, for its part, it was satisfied that integration would not preclude the Security Council or the Military Staff Committee from imposing special conditions pertinent to the exercise of the Committee's functions, especially as regards the requirements of security.

"38. The majority of members taking part in the Fifth Committee's discussion of the two reports, favoured integration. The main points made were:

"(a) Some representatives expressed themselves unreservedly in favour of the earliest possible integration on the grounds of economy, efficiency and sound administration;

"(b) Other representatives favoured integration and expressed their support for it on receiving assurances given on behalf of the Secretary-General:

"(i) That the Secretary-General would consult the Security Council as he saw fit;

19/ Ibid., para. 36.

20/ G A (XII), Annexes, a.i. 41, p. 15, A/C.5/709, para. 37.

21/ Ibid., p. 5, A/3691, para. 5.

22/ Ibid., p. 65, A/3800, paras. 37-39.

"(ii) That, should the Military Staff Committee become more active and be required to fulfil the functions assigned to it under the Charter, the Secretary-General would be prepared to provide it with the necessary expert staff;

"(c) The statements made in paragraphs 32 and 35 of the Secretary-General's report that, under Article 101 of the Charter, the General Assembly was competent to decide whether the provisions of any Staff Regulations adopted by it should be applied in full or in part to the civilian staff of the Military Staff Committee, did not appear to give rise to any legal difficulty.

"39. The representative of the Union of Soviet Socialist Republics believed that the principal considerations involved were of a legal and political nature. He did not consider that the Fifth Committee was competent to deal with all the aspects of the matter and, pending review by the political organs concerned, no decision should be taken at the present stage. He also pointed out that, as the secretariat of the Military Staff Committee was already doing useful work on behalf of the United Nations Secretariat, the argument that integration was in the interests of economy and sound administration did not, in fact, arise."

12. Upon the recommendation of the Fifth Committee, the General Assembly adopted resolution 1235 (XII), requesting "the Secretary-General, subject to any objection which may be received from the Security Council, to take appropriate steps to effect the integration of the civilian staff of the Military Staff Committee with the Secretariat of the United Nations". The implementation of this resolution was later reported 23/ by the Secretary-General as follows:

"Amongst the chief organizational changes taking place in 1958 has been the integration of the secretariat of the Military Staff Committee with the United Nations Secretariat, in conformity with General Assembly resolution 1235 (XII). Certain of the posts formerly assigned specifically for servicing the Committee have now been reallocated to other units of the Secretariat, with arrangements being made to provide the Committee with necessary services from central sources."

*\*\*2. Staff of the United Nations Children's Fund*

*\*\*3. Joint secretariat of the Permanent Central Opium Board and Narcotic Drugs Supervisory Body*

*\*\*4. United Nations Panel of Field Observers*

*\*\*5. The secretariat of the Technical Assistance Board*

*\*\*6. Staff of the Office of the United Nations High Commissioner for Refugees*

*\*\*7. Staff of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*

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23/ G A (XIII), Suppl. No. 5 (A/3825), p. 16.

### 8. Staff of the United Nations Korean Reconstruction Agency

13. In a memorandum 24/ to the General Assembly, the Agent-General for the United Nations Korean Reconstruction Agency recommended that UNKRA should cease as an operational organization on 30 June 1958. This memorandum and the arrangements for residual functions and ultimate liquidation were approved 25/ by the General Assembly at the twelfth session. The action thus taken was reaffirmed 26/ by the General Assembly at the thirteenth session. The residual functions were delayed, and the termination of operations, which was scheduled for 31 December 1959, 27/ was actually completed on 31 August 1960. 28/

### 9. United Nations Emergency Force

14. The United Nations Emergency Force (UNEF) was established as a result of the situation created by the invasion of Egypt in 1956. The resolution 29/ of the General Assembly establishing UNEF read, in part, that the General Assembly:

"Authorizes the Chief of the Command immediately to recruit, from the observer corps of the United Nations Truce Supervision Organization, a limited number of officers who shall be nationals of countries other than those having permanent membership in the Security Council, and further authorizes him, in consultation with the Secretary-General, to undertake the recruitment directly, from various Member States other than the permanent members of the Security Council, of the additional number of officers needed;

"Invites the Secretary-General to take such administrative measures as may be necessary for the prompt execution of the actions envisaged in the present resolution."

15. In another resolution 30/ the General Assembly established an Advisory Committee; the resolution

"Authorizes the Secretary-General to issue all regulations and instructions which may be essential to the effective functioning of the Force, following consultation with the Committee aforementioned and to take all other necessary administrative and executive action."

16. A set of Regulations for the United Nations Emergency Force 31/ was accordingly issued by the Secretary-General. The Regulations distinguished three categories of personnel: (a) members of UNEF, (b) staff detailed from the United Nations Secretariat to serve with UNEF and (c) locally recruited personnel. The rights and duties of the members of UNEF were governed by the Regulations for UNEF 32/ and by the Status Agreement with Egypt 33/ entered into by the United Nations with the host country,

24/ G A (XII), Annexes, a.i. 27, p. 4, A/C.2/L.350, para. 6.

25/ G A resolution 1159 (XII), paras. 4 and 5.

26/ G A resolution 1304 (XIII).

27/ G A (XIV), Annexes, a.i. 32, A/4263, para. 124; G A resolution 1433 (XIV).

28/ G A resolution 1547 (XV).

29/ G A resolution 1000 (ES-I).

30/ G A resolution 1001 (ES-I), operative para. 7.

31/ ST/SGB/UNEF/1, para. 19.

32/ ST/SGB/UNEF/1, chapter V.

33/ G A (XI), Annexes, vol. II, a.i. 66, p. 52, A/3526.

Egypt. The second category of personnel 34/ remained subject to the Staff Regulations of the United Nations and to the authority of the Secretary-General. The terms and conditions of employment for locally recruited personnel 35/ were prescribed by the Commander of UNEF and, to the extent feasible, were to follow practices prevailing in the locality; they were not subject to the Staff Regulations of the United Nations.

### 10. United Nations Observation Group in Lebanon

17. As a result of the political situation which developed in Lebanon in the summer of 1958, the Security Council adopted a resolution 36/ in which it decided to send an observation group to Lebanon. The resolution authorized the Secretary-General "to take the necessary steps to that end". The Secretary-General appointed three members to the United Nations Observation Group in Lebanon (UNOGIL) and provided them with military observers and a secretariat. 37/ The military observers were recruited from various Member States, and their conditions of service were set forth in a memorandum by the Secretary-General. Members of the secretariat of UNOGIL were detailed from the United Nations Secretariat and remained subject to the Staff Rules and the Staff Regulations of the United Nations. The political situation improved towards the end of 1958, and UNOGIL was withdrawn from Lebanon. 38/

### 11. United Nations Special Fund

18. By a resolution 39/ adopted at its thirteenth session, the General Assembly established the Special Fund as an organ of the United Nations, to be administered under the authority of the Economic and Social Council and of the General Assembly. It was composed of a Governing Council, a Managing Director and his staff, and a consultative board. The resolution provided for the staff of the Special Fund as follows: 40/

"28. The Managing Director shall be assisted by a small group of officials to be selected by him or in consultation with him, on the basis of their special competence.

"29. For other services, the Managing Director shall rely as far as possible on the existing facilities of the United Nations, the specialized agencies, the International Atomic Energy Agency, and the Technical Assistance Board. These facilities should be made available to the Special Fund without charge except when clearly identifiable additional expenses are involved. The Managing Director may also, as required, engage expert consultants."

34/ ST/SGB/UNEF/1, para. 19 (b).

35/ *Ibid.*, para. 19 (c).

36/ S C, 13th yr., Suppl. for Apr.-June, p. 47, S/4023.

37/ *Ibid.*, p. 70, S/4029.

38/ S C, 13th yr., Suppl. for Oct.-Dec., p. 7, S/4114; *ibid.*, p. 14, S/4116. In the Annual Report of the Secretary-General on the Work of the Organization, 16 June 1958-15 June 1959 (G A (XIV), Suppl. No. 1 (A/4132), p. 22), he stated:

"The last group of United Nations military observers left Beirut on 9 December, when the United Nations Observation Group in Lebanon officially ceased its operation."

39/ G A resolution 1240 (XIII).

40/ G A resolution 1240 (XIII), part B, section III, paras. 28 and 29.

19. In a note 41/ on the "Administrative arrangements of the Special Fund", the Managing Director stated:

"The conditions of service of the staff appointed to the Special Fund will be those of other United Nations staff members, except that tenure will relate only to the Special Fund. The selection and appointment of staff will be made under arrangements fulfilling the provision in paragraph 28 of General Assembly resolution 1240 (XIII)."

**\*\*C. Staff of the Office of the Registry of the International Court of Justice**

## II. APPOINTMENT OF THE SECRETARY-GENERAL

### A. Method of appointment

20. In view of the fact that Mr. Dag Hammarskjold's term of office was to expire in April 1958, the appointment of the Secretary-General of the United Nations was placed on the agenda of the twelfth session of the General Assembly. A brief account of the related procedural steps is set forth below.

#### 1. *Recommendation of the Security Council*

21. The Security Council, following a private meeting held on 26 September 1957, and in accordance with rule 55 of its provisional rules of procedure, 42/ issued a communiqué 43/ stating that the Council had unanimously decided to recommend the appointment of Mr. Dag Hammarskjold to the General Assembly, as Secretary-General of the United Nations for a new five-year term of office. The practice of recommending only one candidate was again 44/ followed by the Security Council. The decision of the Council was communicated by letter to the President of the General Assembly 45/ and to the candidate 46/ by the President of the Security Council.

#### 2. *Appointment of the Secretary-General by the General Assembly*

##### \*\*a. PRIVATE MEETINGS

##### b. NOMINATION IN THE GENERAL ASSEMBLY

22. At the 690th plenary meeting of the General Assembly, its President informed 47/ the General Assembly of the unanimous recommendation received from the President of the Security Council.

##### c. SECRET BALLOT

23. At the suggestion of the President, the General Assembly voted by secret ballot. The recommendation was adopted 48/ by 80 votes to none, with one invalid vote. Before

41/ SF/L.3 (mimeographed).

42/ S/96/Rev.4 (United Nations Publication, Sales No.: 52.I.18).

43/ S C, 12th yr., 792nd mtg.

44/ See Repertory, under Article 97, paras. 37 and 38.

45/ G A (XII), Plen., 690th mtg., para. 57.

46/ S C, 12th yr., 792nd mtg., annex.

47/ G A (XII), Plen., 690th mtg., para. 57.

48/ Ibid., para. 60.

the voting took place, the Israeli delegation registered its vote by means of a communication to the President of the General Assembly. 49/

\*\*d. MAJORITY REQUIRED

e. INSTALLATION IN OFFICE

24. After the announcement of the result of the ballot, the Executive Assistant to the Secretary-General, Mr. Cordier, led Mr. Dag Hammarskjold to the platform. Mr. Hammarskjold made a speech of acceptance. 50/ This was followed by congratulatory speeches by the President of the General Assembly and by other representatives. 51/

#### B. Terms of appointment of the Secretary-General

25. At the 731st plenary meeting, on 14 December 1957, the General Assembly adopted 52/ the following resolution 53/ on Mr. Dag Hammarskjold's terms of appointment:

"The General Assembly,

"Recalling its resolutions 11 (I) of 24 January 1946, 13 (I) (paragraph 32) of 13 February 1946 and 709 (VII) of 7 April 1953,

"Decides that the terms of appointment of the Secretary-General during his second term of office shall be the same as during his first term."

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49/ Ibid., para. 61.

50/ Ibid., paras. 63-74.

51/ Ibid., paras. 75-166.

52/ G A (XII), Plen., 731st mtg., para. 57.

53/ G A resolution 1229 (XII).