

REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS
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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 that of the previous studies of this Article in the *Repertory* and *Supplements Nos. 1, 2, 3, 4, 5, 6, 7 and 8*, except that new sub-headings have been added where necessary following the creation of new organs or to reflect a new practice. In addition, as in *Supplement No. 8*, the heading for “Special Intern” is omitted from the present study since the programme ceased to operate in 1958.¹
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. 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.
3. In referring to certain organs of the United Nations, the present study follows the practice established in previous studies. The fact that the staff of certain organs are mentioned under Article 97, rather than Article 101,² does not indicate a distinction as to the status of such staff. All of the staff employed by the United Nations form part of the staff of the Organization within the meaning of Article 97 of the Charter.³
4. The second part of the present study relates to the practice that has been followed with respect to the appointment of the Secretary-General of the United Nations. At the fifty-first session of the General Assembly, on 17 December 1996, Mr. Kofi Annan was appointed by acclamation the Secretary-General of the United Nations for a term of office from 1 January 1997 to 31 December 2001.
5. The practice concerning the functions of the Secretary-General is studied in this *Repertory* and its *Supplements* under Article 98. Therefore, the role of the Secretary-General as chief administrative officer of the Organization is not examined in the present study.

¹ See *Repertory, Supplement No. 3*, under Article 97, para. 13.

² 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.

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.

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. During the period under review, the Secretary-General submitted, on 14 July 1997, his report entitled "Reviewing the United Nations: A Programme for Reform".⁴ As envisaged in the report, the Department for Disarmament Affairs was established in January 1998.⁵ Furthermore, in 1998, the Department for Humanitarian Affairs was renamed as the "Office for the Coordination of Humanitarian Affairs".

(b) Staff Regulations

7. 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 Staff Regulations were amended several times.

8. Pursuant to the amendment to Staff Regulation 11.1 and a revised scale of gross and net salaries for staff in the Professional and higher categories, approved by the General Assembly in resolution 49/222 of 23 December 1994, the Staff Regulations were amended to reflect these changes in 1995.⁶ The Staff Regulations were subsequently amended during the same year, following resolution 49/241 of 6 April 1995, whereby upon the recommendation of the Fifth Committee⁷ the Assembly approved amendments to regulation 3.2(a), 5.3 and annex IV, which limited the repatriation grant and other expatriate benefits to staff who both worked and resided in a country other than their home country.⁸ The Staff Regulations were further amended in 1997, pursuant to resolution 51/216 of 18 December 1996, in which the Assembly, upon the recommendation of the Fifth Committee,⁹ approved amendments to regulation 3.3(b) and annex I, to establish new rates for staff assessment and revised salary scales for the Professional and higher categories.¹⁰

⁴ A/51/950 and Add. 1-6.

⁵ A/51/950/Add.3.

⁶ See ST/SGB/Staff Regulations/Rev.23.

⁷ A/49/902/Add.2.

⁸ See ST/SGB/Staff Regulations/Rev.23/Amend.1.

⁹ A/51/745.

¹⁰ See ST/SGB/Staff Regulations/Rev.23/Amend.2.

9. Upon the recommendation of the Fifth Committee,¹¹ the Assembly adopted resolution 52/216 of 22 December 1997, by which it approved a revised base scale of gross and net salaries for staff in the Professional and higher categories, contained in annex I to the Staff Regulations, as well as a consequential amendment to regulation 3.3(b)(i). The Staff Regulations were amended accordingly to reflect the changes and became effective as from 1 March 1998.¹²

10. In August 1994, the Secretary-General announced that a United Nations “Code of Conduct” would be promulgated as part of the establishment of a transparent and effective system of accountability.¹³ Subsequently, in 1997, the Secretary-General submitted his proposals¹⁴ to the General Assembly to implement the Code of Conduct through revisions to Article I of the Staff Regulations and correlated changes to Chapter I of the 100 series of the Staff Rules. These proposed changes concerned staff regulations and rules relating to the status, basic rights and obligations, and performance of staff. Upon the recommendation of the Fifth Committee,¹⁵ the General Assembly adopted resolution 52/252 of 8 September 1998, by which it adopted the revised text of Article I of the Staff Regulations, and took note of the revised text of Chapter I of the 100 series of the Staff Rules, as proposed in the reports of the Secretary-General. The Staff Regulations were amended accordingly to reflect these changes, which came into effect as from 1 January 1999.¹⁶

11. In the above mentioned resolution, the General Assembly also requested the Secretary-General “to prepare for consideration by the General Assembly at its fifty-fourth session a text of the Staff Regulations drafted in gender-neutral terms”. On 24 August 1999, the Secretary-General submitted his report in response to the request,¹⁷ where amendments to the scope and purpose provision were proposed in order to ensure that the text of the Staff Regulations were in gender-neutral terms.¹⁸

12. Following resolution 53/209 of 18 December 1998,¹⁹ staff regulation 3.3 was amended to reflect a new staff assessment rates approved by the Assembly, and regulation 4.4 was also amended.²⁰

¹¹ A/52/735 and Corr. 1 and 2.

¹² See ST/SGB/1998/8.

¹³ See A/C.5/49/1, paras. 28-31.

¹⁴ A/52/488 and Add.1.

¹⁵ A/52/955/Add.1

¹⁶ See ST/SGB/1998/20.

¹⁷ A/54/276.

¹⁸ The amendments were contained in regulations 1.1 (b), 1.2(c) and (n), 3.3 (a), 8.2, 9.1 (a) and (c), 9.3 (b), 10.1, 10.2 and 11.1, and in paragraph 6 of annex I to the Staff Regulations.

¹⁹ The resolution was adopted upon the recommendation of the Fifth Committee contained in document A/53/754.

²⁰ See ST/SGB/1999/2.

2. STAFF GOVERNED BY SPECIAL STAFF RULES

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

13. During the period under review, the staff specially engaged for conferences and other short-term service at Headquarters were governed by the 300 series of the Staff Rules. In 1998, a number of amendments were introduced to implement the General Assembly resolution and decision, and to harmonize provisions with other series of the Staff Rules.²¹ These amendments concerned staff rules relating to hours of work and official holidays, sick leave, and last day for pay purposes. In addition, in August 1999, new rules were introduced to the 300 series of the Staff Rules to align them with the amended Staff Regulations as adopted in General Assembly resolution 52/252 of 8 September 1998.²²

(b) *Technical cooperation project personnel*

14. 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.

15. On 20 November 1995, the Secretary-General issued the eighth revision of the 200 series of the Staff Rules, which consolidated all the amendments to the seventh revision of the 200 series that had been reported annually to the General Assembly from 1991 through 1994.²³ New amendments were also made to the staff rules with regard to education grant,²⁴ insurance,²⁵ and last day for pay purposes.²⁶ The eighth revision was subsequently amended and issued three times, respectively, in March 1996,²⁷ March 1998²⁸ and June 1999.²⁹

16. On 10 October 1996, the ninth revision to the 200 series of the Staff Rule was issued.³⁰ Two changes relating to pensionable remuneration³¹ and compensation for death, injury or illness attributable to service,³² were made to effect minor editorial changes. On 5 November 1997, further amendments to a number of staff rules were issued,³³ including those regarding mobility and hardship allowance,³⁴ special leave,³⁵ group life insurance

²¹ See A/53/502.

²² See A/54/272, paras. 22-27.

²³ ST/SGB/Staff Rules/2/Rev.8.

²⁴ ST/SGB/Staff Rules/2/Rev.8, staff rule 203.8.

²⁵ ST/SGB/Staff Rules/2/Rev.8, staff rule 207.21.

²⁶ ST/SGB/Staff Rules/2/Rev.8, staff rule 209.11.

²⁷ ST/SGB/Staff Rules/2/Rev.8/Amend.1.

²⁸ ST/SGB/Staff Rules/2/Rev.8/Amend.2.

²⁹ ST/SGB/1999/7 (ST/SGB/Staff Rules/2/Rev.8/Amend.3).

³⁰ ST/SGB/Staff Rules/2/Rev.9. See also A/C.5/51/7.

³¹ ST/SGB/Staff Rules/2/Rev.9, staff rule 203.15.

³² ST/SGB/Staff Rules/2/Rev.9, staff rule 206.5.

³³ A/52/274.

³⁴ Staff rule 203.11.

³⁵ Staff rule 205.3.

plan,³⁶ medical care,³⁷ and maternity leave.³⁸ In October and November 1998, respectively, a number of staff rules under the 200 series were amended in order to simplify the previous rules and to implement the General Assembly resolution and decision.³⁹ Finally, on 23 August 1999, the 200 series of Staff Rules were amended to align them with the amended Staff Regulations adopted by the Assembly in resolution 52/252 of 8 September 1998.⁴⁰ Staff rules with regard to excess baggage and unaccompanied shipments and miscellaneous travel expenses were also amended.

B. Staff of certain organs

- **1. MILITARY STAFF COMMITTEE⁴¹
- **2. STAFF OF THE UNITED NATIONS CHILDREN'S FUND⁴²
- **3. STAFF OF THE INTERNATIONAL NARCOTICS CONTROL BOARD⁴³
- **4. STAFF OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES⁴⁴
- **5. STAFF OF THE UNITED NATIONS RELIEF AND WORK AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST⁴⁵
- **6. STAFF OF THE UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH⁴⁶
- **7. STAFF OF THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT⁴⁷
- **8. STAFF OF THE JOINT INSPECTION UNIT⁴⁸
- **9. STAFF OF THE UNITED NATIONS CAPITAL DEVELOPMENT FUND⁴⁹
- **10. STAFF OF THE UNITED NATIONS DEVELOPMENT PROGRAMME⁵⁰
- **11. UNITED NATIONS UNIVERSITY⁵¹

³⁶ Staff rule 206.2.

³⁷ Staff rule 206.4.

³⁸ Staff rule 206.7.

³⁹ A/53/502 and Add.1.

⁴⁰ See A/54/272.

⁴¹ See *Repertory*, paras. 8 – 10.

⁴² See *Repertory*, paras. 12 and 13.

⁴³ See *Supplement No. 3*, Paras. 14 – 18.

⁴⁴ See *Repertory*, paras. 23 and 25.

⁴⁵ See *Repertory*, 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.

⁴⁶ See *Repertory*, *Supplement No. 3*, under Article 101, para 106. See also *Repertory*, *Supplement No. 6*, under Article 97, para 19.

⁴⁷ See *Repertory*, *Supplement No. 3*, under Article 101, paras. 78 and 79.

⁴⁸ See *Repertory*, *Supplement No. 4*, under Article 97, para. 20; and *Supplement No. 5*, para. 20.

⁴⁹ See *Repertory*, *Supplement No. 4*, under Article 97, para. 18.

⁵⁰ See *Repertory*, *Supplement No. 5*, under Article 97, para. 15.

⁵¹ See *Repertory*, *Supplement No. 5*, under Article 97, para. 21.

- **12. STAFF OF THE UNITED NATIONS ENVIRONMENTAL PROGRAMME⁵²
- **13. STAFF OF THE INTERNATIONAL CIVIL SERVICE COMMISSION⁵³
- **14. STAFF OF THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION⁵⁴
- **15. STAFF OF THE UNITED NATIONS INSTITUTE FOR DISARMAMENT RESEARCH⁵⁵
- **16. STAFF OF INTERNATIONAL RESEARCH AND TRAINING INSTITUTE FOR THE ADVANCEMENT OF WOMEN⁵⁶
- **17. STAFF OF THE UNITED NATIONS RESEARCH INSTITUTE FOR SOCIAL DEVELOPMENT⁵⁷
- **18. UNITED NATIONS INTERREGIONAL CRIME AND JUSTICE RESEARCH INSTITUTE⁵⁸

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

17. 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.”

On 11 July 1996, the Court adopted amendments consisting of editorial modifications to an annex to the Staff Regulations. On 16 April 1997, on the proposal of the Rules Committee, the Court adopted a new Article 11 of the Staff Regulations for the Registry as well as a new Annex VI, the texts of which instituted a new system of Registry staff appeals against administrative decisions or disciplinary measures.⁵⁹

II. APPOINTMENT OF THE SECRETARY GENERAL

18. During the period under review, the General Assembly adopted resolution 51/241 of 31 July 1997, on the strengthening of the United Nations system. The Assembly adopted a text, contained in the annex to the resolution, in which it stated that the process of selecting the Secretary-General should be more transparent. The annex also indicated that the duration of the term or terms of appointment, including the option of a single term, should be considered before the appointment of the next Secretary-General; that due regard should continue to be given to regional rotation and to gender equality; that, without prejudice to the prerogatives of the Security Council, the President of the General Assembly might consult with Member States to identify potential candidates endorsed by

⁵² See *Repertory, Supplement No. 5*, under Article 97, paras. 22 – 24.

⁵³ See *Repertory, Supplement No. 5*, under Article 97, para. 25.

⁵⁴ See *Repertory, Supplement No. 6*, under Article 97, para. 21; see also *Supplement No. 7*, under Article 97, para. 24.

⁵⁵ See *Repertory, Supplement No. 6*, under Article 97, paras. 23 and 24.

⁵⁶ See *Repertory, Supplement No. 6*, under Article 97, para. 25.

⁵⁷ See *Repertory, Supplement No. 6*, under Article 97, para. 19.

⁵⁸ See *Repertory, Supplement No. 8*, under Article 97, para. 24.

⁵⁹ See *I.C.J. Yearbook 1997-1998*, pp. 148 and 265-268.

a Member State and forward those results to the Security Council; and that, to ensure a smooth and efficient transition, 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 would expire.⁶⁰

A. Method of appointment

19. As the term of office of Mr. Boutros Boutros-Ghali was to expire on 31 December 1996, the appointment of the Secretary-General of the United Nations was included in the agenda of the fifty-first session of the General Assembly in 1996.

1. RECOMMENDATION OF THE SECURITY COUNCIL

(a) Private meetings

20. In accordance with rule 48 of the provisional rules of procedure of the Security Council, the Council held two private meetings on 19 November and 13 December 1996, respectively, in order to consider the question of the recommendation to the General Assembly for the appointment of the Secretary-General of the United Nations.⁶¹

(b) Communiqués

21. 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 3714th meeting of the Council on 19 November 1996.⁶² 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 had before it a draft resolution submitted by Botswana, Chile, China, Egypt, France, Germany, Guinea-Bissau, Honduras, Indonesia and the Russian Federation, which recommended that Mr. Boutros Boutros-Ghali be appointed Secretary-General for a second term.⁶³ In a vote taken by secret ballot, the draft resolution received 14 votes in favour to 1 vote against, which was cast by a permanent member. The draft resolution was not adopted and the Council continued its consultations on the matter.

22. Another official communiqué was issued at the close of the 3725th meeting of the Security Council on 13 December 1996.⁶⁴ Having considered the question of the recommendation for the appointment of the Secretary-General, the Council recommended to the General Assembly that Mr. Kofi Annan be appointed Secretary-General of the United Nations for a term of office from 1 January 1997 to 31 December 2001.

⁶⁰ See Annex, Chapter XIX.

⁶¹ See S/PV.3714 and 3725.

⁶² See S/PV.3714.

⁶³ S/1996/952.

⁶⁴ See S/PV.3725.

*** (c) Communications concerning candidates*

(d) Number of candidates

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

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

(f) Secret vote

24. In accordance with previous practice,⁶⁵ the votes taken in the Security Council on the recommendation for the appointment of the Secretary-General of the United Nations was by secret ballot.

(g) Communication of recommendations to the General Assembly

25. The President of the Security Council, by a letter dated 13 December 1996, informed the President of the General Assembly of the unanimous resolution of the Security Council 1090 (1996), recommending that the General Assembly appoint Mr. Kofi Annan as Secretary-General of the United Nations for a term of office from 1 January 1997 to 31 December 2001.⁶⁶

*** (h) Communication to the candidate*

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

(a) Private meetings

26. In accordance with previous practice, the Secretary-General, at the fifty-first session of the General Assembly in 1996, was appointed in a public meeting, and not in private as provided by rule 141 of the rules of procedure of the General Assembly.

(b) Nomination in the General Assembly

27. At the 88th plenary meeting of the fifty-first session, 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. Kofi Annan as Secretary-General of the United Nations for a term of office from 1 January 1997 to 31 December 2001.⁶⁷ In connection with the recommendation, and following previous practice, the President of the General Assembly drew attention to draft resolution A/51/L.66, submitted by Canada, Congo, Mexico, Mongolia and Poland, regarding the appointment of Mr. Kofi Annan as Secretary-General of the United Nations for a term of office from 1 January 1997 to 31 December 2001.

⁶⁵ G A resolution 11(I) of 24 January 1946.

⁶⁶ See A/51/732.

⁶⁷ A/51/PV.88.

(c) Appointment by acclamation

28. On 17 December 1996, at the fifty-first session of the General Assembly, draft resolution A/51/L.66 concerning the appointment of Mr. Kofi Annan as the Secretary-General was adopted by acclamation as resolution 51/200.

(d) Installation in office

29. 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. Kofi Annan to the platform. The President of the General Assembly informed Mr. Kofi Annan 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.⁶⁸

B. Terms of the appointment of the Secretary-General

1. LENGTH OF TERM OF OFFICE

30. In accordance with the usual practice of the United Nations, the General Assembly appointed Mr. Kofi Annan to be Secretary-General for a period of five years from 1 January 1997 to 31 December 2001.

2. CONDITIONS OF SERVICE

(a) Emoluments

31. Pursuant to resolution 51/216 of 18 December 1996, by which the General Assembly approved the consolidation of 5.26 points of post adjustment into the base salary scale and increased the scale by 0.4 percent, 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 18 December 1997.⁶⁹ The Advisory Committee was informed that the post adjustment multiplier applicable at New York was 44.4 effective 1 January 1997 and 47 effective 1 November 1997. Applying the new methodology, the Advisory Committee recommended that the net base salary of the Secretary-General be increased from \$140,484 to \$148,465 effective 1 January 1997; and the post adjustment be increased from \$ 58,909 to \$65,918 effective 1 January 1997 and to \$69,779 effective 1 November 1997. The total net remuneration of the Secretary-General would therefore be \$214,383 as of 1 January 1997 and \$218,244 as of 1 November 1997.

⁶⁸ *Ibid.*

⁶⁹ See A/52/7/Add.8.

32. In its resolution 52/225 of 4 February 1998,⁷⁰ the General Assembly concurred with the recommendation of the Advisory Committee concerning the salary of the Secretary-General contained in paragraph 8 of its report.

(b) Other conditions of service

33. The Advisory Committee also made a recommendation with regard to the retirement allowance of the Secretary-General, in response to the new methodology approved by the General Assembly in its resolution 51/216 of 18 December 1996. 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 the retirement allowance of the Secretary-General be increased to \$109,122 effective 1 November 1997.

34. The General Assembly concurred with the recommendation of the Advisory Committee concerning the retirement allowance of the Secretary-General in resolution 52/225 of 4 February 1998.

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

⁷⁰ See para. 1.