

# ARTICLE 98

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## TEXT OF ARTICLE 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

## INTRODUCTORY NOTE

1. Article 98 sets forth certain functions of the Secretary-General. Articles concerning other functions of the Secretary-General are Article 97, which states that the Secretary-General shall be the chief administrative officer of the Organization, and Article 99, which authorizes the Secretary-General to bring to the attention of the Security Council any matter which, in his opinion, may threaten the maintenance of international peace and security. References to specific responsibilities of the Secretary-General are also contained in Articles 12 (2), which refers to notification of the General Assembly concerning matters dealt with by the Security Council; Article 20, which deals with the convocation of special sessions of the General Assembly; Article 73 e, under which the Secretary-General is to receive information concerning Non-Self-Governing Territories; Article 101, on the appointment of the staff of the Secretariat; and Article 110, which deals with the receipt of notifications concerning ratifications of the Charter. It may be noted that Article 97 defines the Secretariat as comprising the Secretary-General and such staff as the Organization may require, and under Article 7 (1), the Secretariat is one of the principal organs of the United Nations. Article 102 (1) sets forth a function of the Secretariat, which shall register and publish treaties and international agreements entered into by Members of the United Nations.
2. Certain functions are also entrusted to the Secretary-General under the Statute of the International Court of Justice. Furthermore, a number of multilateral conventions and international agreements provide that the Secretary-General shall have depositary and other functions with regard to these instruments.
3. There is a close connexion between Article 98 and the last sentence of Article 97 which provides that the Secretary-General "shall be the chief administrative officer of the Organization." The Secretary-General has frequently used the powers inherent in his position as chief administrative officer in discharging a specific mandate given to him under resolutions adopted by the United Nations organs, and conversely, functions which might be deemed to come under the authority of the chief administrative officer of the Organization have often been specifically entrusted to the Secretary-General by decision of the General Assembly or other United Nations organs. In many instances, it is difficult to determine clearly whether the performance of a particular function by the Secretary-General was based on the provisions of Article 97 or on those of Article 98. The present study, therefore, deals not only with the practice bearing upon Article 98, but also with the practice in relation to functions which the Secretary-General performs under the authority vested in him by virtue of the last sentence of Article 97. However, functions entrusted to the Secretary-General specifically under Articles other than Article 97 and Article 98 are mentioned only as a cross-reference to the relevant study in this Repertory.

4. The presentation of the material included in the present study follows the pattern established by the Preparatory Commission of the United Nations, which divided the functions of the Secretary-General into six principal categories. 1/ As one of these categories (the fourth) related to his functions with regard to the organization and administration of the Secretariat, it is dealt with in this Repertory under Article 101; accordingly, the Analytical Summary of Practice relating to the functions of the Secretary-General is divided into five sections dealing, respectively, with general administrative and executive functions; technical functions; financial functions; political functions; and representational functions. Also omitted from the present study, and included elsewhere in the Repertory, is reference to the practice relating to certain functions of the Secretary-General in connexion with the following matters:

- a. Procedure for admission of new Members; 2/
- b. Establishment of advisory bodies; 3/
- c. Progressive development of international law and its codification; 4/
- d. Preparation and administration of the budget; 5/
- e. Collection of contributions to the budget; 6/
- f. Financial and budgetary arrangements with specialized agencies; 7/
- g. Convocation of sessions of the General Assembly; 8/
- h. Certain provisions of the rules of procedure of the Security Council; 9/
- i. Certain aspects of the co-ordination of the policies and activities of the specialized agencies; 10/
- j. Calling of conferences; 11/
- k. Arrangements for consultation with non-governmental organizations; 12/
- l. Transmitting information on conditions in Non-Self-Governing Territories; 13/
- m. Trusteeship Agreements; 14/
- n. Petitions from, and visits to, Trust Territories; 15/
- o. Questionnaires and reports concerning Trust Territories; 16/
- p. Bringing to the attention of the Security Council matters which may threaten the maintenance of international peace and security; 17/
- q. Registration and publication of treaties and international agreements. 18/

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1/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. VIII, section 2, paras. 8-17; the relevant text of the report is reproduced in para. 7 below.

2/ See in this Repertory under Article 4.

3/ See in this Repertory under Articles 7 and 20.

4/ See in this Repertory under Article 13 (1) (a) with regard to the progressive development of international law and its codification.

5/ See in this Repertory under Article 17 (1).

6/ See in this Repertory under Article 17 (2).

7/ See in this Repertory under Article 17 (3).

8/ See in this Repertory under Article 20.

9/ See in this Repertory under Article 30.

10/ See in this Repertory under Articles 58, 63 and 64.

11/ See in this Repertory under Article 62 (4).

12/ See in this Repertory under Article 71.

13/ See in this Repertory under Article 73.

14/ See in this Repertory under Article 79.

15/ See in this Repertory under Article 87.

16/ See in this Repertory under Article 88.

17/ See in this Repertory under Article 99.

18/ See in this Repertory under Article 102.

5. The Analytical Summary of Practice does not cover every single instance in which a specific function was entrusted to, or was undertaken by, the Secretary-General, but, rather, includes examples of some of the more significant functions of the Secretary-General, and of decisions which indicate the scope of his authority. A brief summary of the principal types of functions performed by the Secretary-General in relation to each of the categories mentioned in the report of the Preparatory Commission is provided in the General Survey.

## I. GENERAL SURVEY

### A. The scope of the functions of the Secretary-General

6. The Charter is specific with regard to certain detailed aspects of the responsibilities of the Secretary-General, such as notifying the General Assembly of matters being dealt with by the Security Council, or the making of an annual report on the work of the Organization, but it does not define in precise terms the over-all scope of the functions of the Secretary-General or the limits of his authority. The Charter describes the nature of the powers and responsibilities of the Secretary-General in the following broad terms: "He shall be the chief administrative officer of the Organization" and "... shall act in that capacity", it thus being left to the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council to delimit the scope of the field of action of the Secretary-General by entrusting him with such functions as they may deem fit. In addition to functions expressly entrusted to him, the Secretary-General must be deemed to be authorized to exercise on his own initiative such implied powers as are inherent in his office, and as may be required to carry out his responsibilities as the chief administrative officer of the Organization.

7. The report of the Preparatory Commission contains the following statement <sup>19/</sup> concerning the functions of the Secretary-General:

"8. The principal functions assigned to the Secretary-General, explicitly or by inference, by the Charter, may be grouped under six headings: general administrative and executive functions, technical functions, financial functions, the organization and administration of the International Secretariat, political functions and representational functions.

"9. Many of the Secretary-General's duties will naturally be delegated, in greater or lesser degree, to members of his staff and particularly to his higher officials. But the execution of these duties must be subject to his supervision and control; the ultimate responsibility remains his alone.

"10. The Secretary-General is the 'chief administrative officer of the Organization' (Article 97) and Secretary-General of the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council (Article 98). Certain specific duties of a more narrowly administrative character derived from these provisions are indicated in the Charter (e.g., in Articles 12 and 20, and in Article 98, the last sentence of which requires the Secretary-General to present an annual report to the General Assembly on the work of the Organization) and in the Statute of the International Court of Justice (Articles 5 and 13).

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<sup>19/</sup> Report of the Preparatory Commission of the United Nations, PC/20, 23 December 1945, Chapter VIII, section 2, paragraphs 8-17.

"11. Further specific duties falling under this head, many of which will no doubt be defined in the Rules of Procedure of the various principal organs concerned and their subsidiary bodies, relate to the preparation of the agenda and the convocation of sessions, the provision of the necessary staff, and the preparation of the minutes and other documents.

"12. The Secretary-General also has administrative and executive duties of a wider character. He is the channel of all communication with the United Nations or any of its organs. He must endeavour, within the scope of his functions, to integrate the activity of the whole complex of United Nations organs and see that the machine runs smoothly and efficiently. He is responsible, moreover, for the preparation of the work of the various organs and for the execution of their decisions, in co-operation with the Members.

"13. The last-mentioned functions of the Secretary-General have technical as well as administrative aspects. More particularly as regards the work of the Economic and Social Council and the Trusteeship Council, the expert technical assistance which the Secretary-General is able to provide, and which he himself must control, will clearly affect the degree in which these organs can achieve their purposes.

"14. Under the Charter, the Secretary-General has wide responsibilities in connexion with the financial administration of the United Nations; and it may be assumed that, under the financial regulations which will be established by the General Assembly, he will be made primarily responsible for preparing the budget, for allocating funds, for controlling expenditure, for administering such financial and budgetary arrangements as the General Assembly may enter into with specialized agencies, for collecting contributions from Members and for the custodianship of all funds.

"15. The Secretary-General is the head of the Secretariat. He appoints all staff under regulations established by the General Assembly (Article 101, paragraphs 1 and 3), and assigns appropriate staff to the various organs of the United Nations (Article 101, paragraph 2). He alone is responsible to the other principal organs for the Secretariat's work; his choice of staff - more particularly of higher staff - and his leadership will largely determine the character and the efficiency of the Secretariat as a whole. It is on him that will mainly fall the duty of creating and maintaining a team spirit in a body of officials recruited from many countries. His moral authority within the Secretariat will depend at once upon the example he gives of the qualities prescribed in Article 100, and upon the confidence shown in him by the Members of the United Nations.

"16. The Secretary-General may have an important role to play as a mediator and as an informal adviser of many governments, and will undoubtedly be called upon from time to time, in the exercise of his administrative duties, to take decisions which may justly be called political. Under Article 99 of the Charter, moreover, he has been given a quite special right which goes beyond any power previously accorded to the head of an international organization, viz: to bring to the attention of the Security Council any matter (not merely any dispute or situation) which, in his opinion, may threaten the maintenance of international peace and security. It is impossible to foresee how this Article will be applied; but the responsibility it confers upon the Secretary-General will require the exercise of the highest qualities of political judgment, tact and integrity.

"17. The United Nations cannot prosper, nor can its aims be realized, without the active and steadfast support of the peoples of the world. The aims and activities of the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council will, no doubt, be represented before the public primarily by the Chairmen of these organs. But the Secretary-General, more than anyone else, will stand for the United Nations as a whole. In the eyes of the world, no less than in the eyes of his own staff, he must embody the principles and ideals of the Charter to which the Organization seeks to give effect."

8. In practice, the scope of the functions of the Secretary-General has developed to a greater extent than had been foreseen by the Preparatory Commission. For example, the Secretary-General has been entrusted with co-ordinating functions not only with regard to "the whole complex of United Nations organs" but also with regard to the relationship between the work programmes of the United Nations and those of the specialized agencies; in the field of technical functions, the Secretary-General has been entrusted with important operational responsibilities in administering the United Nations programmes of technical assistance, and in providing technical services directly to Governments; in the field of political functions, the practice of United Nations organs has established the right of the Secretary-General to intervene in the deliberations of United Nations organs and to formulate proposals to them.

#### B. Summary of the main categories of functions of the Secretary-General

9. The general administrative and executive functions which the Secretary-General is called upon to perform in connexion with meetings of United Nations organs include the drawing up of the agenda for, and the convening of, meetings, the examination of credentials, the provision of meeting facilities and language services, the distribution of documents, the preparation of records, the issuance of *communiqués* et cetera. The Secretary-General provides and directs the staff required by United Nations organs, and is responsible for all other administrative arrangements connected with their functioning.

10. The Secretary-General is responsible for receiving, and bringing to the attention of the appropriate United Nations organ, all communications which are the concern of that organ. He has frequently been entrusted with the task of transmitting the texts of resolutions, records of discussions, draft conventions and other documents to the States or organizations concerned, and of receiving from them, and transmitting to the competent organ, the comments they have made. It is through the Secretary-General that United Nations organs request and obtain information related to their deliberations, and are notified of actions undertaken in the implementation of their recommendations and of other developments of interest to them.

11. The functions of the Secretary-General relating to the integration of the activities of various United Nations organs find their expression in many aspects of his work. Co-ordinating responsibilities are involved in the making of administrative arrangements for meetings, the channelling of communications, the preparation of the budget of the Organization, the assigning of staff to various organs, and the determining of the way in which the resources of the Organization are to be utilized. The Secretary-General establishes priorities for the substantive work carried out by the Secretariat and plans long-term integrated work programmes in specific fields. In practice, the most important tasks relating to the integration of activities have been those entrusted to the Secretary-General in the field of international economic and social co-operation.

12. The co-ordinating functions of the Secretary-General are not limited to the activities of the United Nations as such, but extend also to the activities of the

specialized agencies and other inter-governmental organizations. The primary responsibility for such co-ordination rests, under Article 63, with the Economic and Social Council and the General Assembly. However, the Secretary-General assists these organs by making suggestions to them and by carrying out the policies decided upon by them, by maintaining liaison and by making appropriate co-ordinating arrangements at the Secretariat level, by acting as Chairman of the Administrative Committee on Co-ordination (ACC), and by performing various services of an administrative character jointly for the United Nations and for the specialized agencies.

13. Reference to every instance in which the Secretary-General has carried out tasks relating to the preparation of the work of the various United Nations organs or to the implementation of their decisions would be beyond the scope of this study. Such tasks include the preparation of studies and reports serving as the basis for discussion, the provision of such documents, data and information as the organ concerned may request or as the Secretary-General may deem to be of interest to it and the preparation of drafts or suggestions relating to action by these organs. The functions of the Secretary-General in executing the decisions of United Nations organs are also manifold. Many decisions are addressed directly to the Secretary-General, and expressly instruct him to carry out a specific task, such as to publish a study, to undertake negotiations or to make certain administrative arrangements; other decisions, although addressed to Governments or other organizations, nevertheless make it necessary for the Secretary-General to take some action, such as to communicate the decision to the Governments or organizations concerned, in order to assure the implementation of the decision.

14. Other administrative and executive functions of the Secretary-General include the taking of responsibility for the provision of facilities and general services by the Secretariat, such as services in respect of travel arrangements, postal and telecommunications services, maintenance of the library and archives, arrangements for the purchase and provision of supplies, and operation of the Health Service. The Secretary-General is further responsible for the provision of services in connexion with the depositary and other functions conferred upon him under various multilateral conventions, and for the preparation of an annual report to the General Assembly on the work of the Organization.

15. An important technical function of the Secretary-General, touching upon nearly every major aspect of United Nations activities, is the collection of information and the preparation of studies and reports. The substantive nature and the scope of the responsibilities assumed by the Secretary-General in this regard may be indicated by giving the following examples of the main types of studies and surveys which have been undertaken by the Secretariat:

- a. Studies and analyses of laws and administrative practice in connexion with items on the agenda of United Nations organs;
- b. Surveys of the situation, needs and available resources in specific fields of particular interest to United Nations organs;
- c. Collection and analysis of data supplied by Governments and other organizations in answer to questionnaires or to requests for information or comments;
- d. Preparation of working papers, memoranda, proposals and progress reports;
- e. Compilation of reference material, bibliographies and other background documentation.

16. The technical functions of the Secretary-General also include the administration of comprehensive operational programmes, particularly in the field of technical

assistance to under-developed countries. In the statistical, fiscal, cartographic, human rights, demographic and other fields, the Secretary-General has been requested to collect information, documents and data on a continuous basis, and to publish periodically the material so compiled; such publications, apart from their use as a basis for the consideration of particular questions by United Nations organs, also constitute a source of reference material for Member Governments and the general public. 20/

17. United Nations organs have frequently called upon the Secretary-General, or the official representing him at their meetings, for advice on procedural or legal questions, and the Secretary-General has been often asked to prepare legal opinions or proposals on specific procedural questions. The Secretary-General has also, on several occasions, been requested to draft the text of reports, agreements and other documents which were then considered by the competent United Nations organs or circulated to Member Governments and other organizations for their comments.

18. As the chief administrative officer of the Organization, the Secretary-General is responsible for its financial administration, on the basis of regulations, budgetary limits and directives adopted by the General Assembly. His functions in this regard include those of: advising United Nations organs on the financial implications of any proposals put before them; preparing the budget; collecting contributions; controlling expenditure; and acting as custodian of the funds of the Organization. In addition, the Secretary-General is also entrusted with the handling of special accounts established for United Nations programmes financed from sources other than the regular United Nations budget, as well as with the custodianship of certain trust funds.

19. As the head of the United Nations Secretariat, the Secretary-General is responsible, subject to the general principles set forth in the Charter and within the framework of regulations and directives adopted by the General Assembly, for the organization of the international Secretariat and for all aspects of its administration. These include the recruitment and appointment of the staff, the determination of the conditions of their employment, the assignment of staff to various organs, and the supervision and direction of the work performed by the staff. 21/

20. By virtue of his position, the Secretary-General has often been called upon to consult with or advise individual delegations or Governments on matters of interest to the Organization. While he has, in most cases, held such consultations or rendered such advice at the invitation of the body concerned, he has occasionally taken the initiative in making his views known or in attempting to reconcile the opposing views of Member States. In a few instances, the Secretary-General has been formally requested by the General Assembly to render assistance, either directly or by appointing members of a commission, in the settlement of differences between Member States, or to undertake negotiations with a view to removing existing obstacles to international amity.

21. The Secretary-General is authorized to include items in the agenda of United Nations organs and to make oral or written statements to these organs on any matter under consideration. This authority enables the Secretary-General to intervene in the deliberations of any United Nations organ and to formulate and present proposals to it.

22. The Secretary-General negotiates and concludes agreements on behalf of the United Nations; he represents the Organization as its spokesman, in legal proceedings and in the field of public information. He also represents the United Nations as a whole in

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20/ See in this Repertory under Articles 62 and 66.

21/ See in this Repertory under Article 101.

many of his functions undertaken to implement the decisions of other organs. In the category of representational functions may also be included the powers and responsibilities which the Secretary-General exercises under the instruments establishing the United Nations Headquarters and regional offices, and under agreements specifying the privileges and immunities enjoyed by the United Nations. The Secretary-General, as the highest ranking permanent official of the Organization, stands for the United Nations as a whole, and represents all its organs and the whole of its membership.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. General administrative and executive functions of the Secretary-General

#### 1. *Functions of the Secretary-General in connexion with meetings of United Nations organs*

23. In setting forth the functions of the Secretary-General, the United Nations Preparatory Commission stated in its report 22/ that

"The Secretary-General is the 'chief administrative officer of the Organization' (Article 97) and Secretary-General of the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council (Article 98)."

Acting "in that capacity in all meetings" of these organs, the Secretary-General is called upon to perform a variety of functions which may be designated as administrative or executive. Some of these functions are listed in the rules of procedure of the various organs.

24. While Article 98 contains an express reference only to the functions of the Secretary-General at meetings of the General Assembly and of the three Councils, the Secretary-General also performs similar functions in connexion with meetings of other United Nations organs. The rules of procedure of the General Assembly, the Economic and Social Council and the Trusteeship Council provide that the Secretary-General shall act in that capacity at all meetings of any committee, sub-committee or other subsidiary body that these organs may establish, and that he shall provide and direct the staff required by them. 23/ The rules of procedure of the Security Council make no reference to the functions of the Secretary-General in connexion with committees or other subsidiary organs established by the Council; however, the Committee of Experts of the Council, in its report 24/ by which it recommended the adoption of the provisional rules of procedure of the Security Council, stated as follows:

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22/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. VIII, section 2, para. 10.

23/ Rules 45 and 46 of the rules of procedure of the General Assembly (United Nations Publication, Sales No.: 1954.I.17); rules 28 and 29 of the rules of procedure of the Economic and Social Council (United Nations Publication, Sales No.: 1953.I.21); rules 23 and 25 of the rules of procedure of the Trusteeship Council (United Nations Publication, Sales No. 1952.I.19). In addition, under several resolutions by which it created subsidiary organs, the General Assembly specifically requested the Secretary-General to assign to such organs the appropriate staff (for example, G A resolutions 109 (II), 111 (II), 112 (II), 293 (IV), and 351 (IV)).

24/ S C , 1st yr., 1st Series, Suppl. No. 2, annex 1 f (S/71), p. 39.

"Although the text of the rule as adopted does not mention committees, commissions, or other subsidiary organs of the Security Council, the Committee unanimously agreed that the Secretary-General or his deputy should have the same power in relation to these organs which he enjoys in relation to the Security Council, unless the Council should decide otherwise. This omission resulted from a desire not to decide in advance a question concerning bodies, the rules for which have not yet been established."

The functions exercised by the Secretary-General in the subsidiary organs of the Security Council have, with some exceptions, 25/ been similar to those performed in subsidiary bodies of the other principal organs of the Organization.

25. Administrative responsibilities similar to those carried out by the Secretary-General with regard to meetings of United Nations organs have also devolved upon him at conferences convened under United Nations auspices. 26/

a. DRAWING UP OF THE AGENDA

26. The Secretary-General draws up the provisional agenda for the sessions of the General Assembly, the three Councils and, where appropriate, their subsidiary bodies, in accordance with the rules of procedure 27/ of those organs. While the provisional rules of procedure of the Security Council require the approval of the provisional agenda by the President of the Council, and the rules of procedure of the Trusteeship Council require that the agenda be prepared in consultation with the President of the Council, the Secretary-General bears the sole responsibility for the preparation of the provisional agenda for the sessions of other United Nations organs.

27. Under the rules of procedure of the Economic and Social Council, the Secretary-General, in addition to being responsible for the drawing up of the provisional agenda for each session of the Council, also assists the Council in working out the basic annual programme for the activities of the Council. The rules of procedure of the Economic and Social Council further provide that the Secretary-General may offer with regard to any item proposed for inclusion in the provisional agenda of the Council such observations as he may wish, including observations regarding the session of the Council at which the item should be dealt with.

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25/ For example, the Military Staff Committee; see in this Repertory under Article 47.

26/ For example, under General Assembly resolutions 366 (IV) and 479 (V) on rules for calling international conferences of States and of non-governmental organizations, respectively. Also, under Economic and Social Council resolutions 32 (IV), 147 A (VI), 296 (XI), 389 (XIII) and General Assembly resolution 810 (IX) by which specific conferences were convened, the Secretary-General was requested to assume functions in connexion therewith. For details, see in this Repertory under Article 62 (4).

27/ For example, see rules 12 and 14 of the rules of procedure of the General Assembly; rule 7 of the provisional rules of procedure of the Security Council (United Nations Publication, Sales No.: 1952.I.18); rules 10-17 of the rules of procedure of the Economic and Social Council; rules 8-10 of the rules of procedure of the Trusteeship Council; rules 5-10 of the rules of procedure of the functional commissions of the Economic and Social Council (United Nations Publication, Sales No.: 1953.I.22).

## b. CONVENING OF SESSIONS AND MEETINGS

28. The Secretary-General is responsible for notifying the Members of the United Nations, and other States and organizations designated in the relevant rules of procedure, of the opening date of sessions of United Nations organs. 28/

29. The Secretary-General is authorized under the provisional rules of procedure of the Security Council and under the rules of procedure of the Trusteeship Council to propose that these organs meet at a place other than United Nations Headquarters; however, the concurrence of the majority of members of the Council concerned is required for the adoption of such a proposal. The Secretary-General is authorized to present his observations should a member of the Trusteeship Council or of the Economic and Social Council request that a change be made in the opening date of the regular session of the Council concerned, or that its session be held elsewhere than at United Nations Headquarters. Although no provision is made in the rules of procedure of the General Assembly for postponing the date fixed for the opening of the regular session, the Secretary-General, in one instance, made a proposal to that effect. The majority of the Members indicated in writing their concurrence with the proposal, and the opening date of the session was postponed accordingly. 29/

30. It has been the practice in subsidiary organs for the Secretary-General or his representative to preside at the opening meetings until the election of a presiding officer.

c. EXAMINATION OF CREDENTIALS 30/

31. The credentials of the representatives of States and organizations entitled to participate in meetings of United Nations organs and in conferences held under United Nations auspices are submitted to the Secretary-General, and he is notified of the names of alternate representatives, advisers or other members of delegations. Except in the case of the credentials of representatives to the General Assembly and to the Economic and Social Council, 31/ the Secretary-General is responsible for examining the credentials communicated to him and for submitting a report thereon to the organ concerned. 32/

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28/ For details, see, for example, rules 1-11 of the rules of procedure of the General Assembly; rules 1-5 of the provisional rules of procedure of the Security Council; rules 1-8 of the rules of procedure of the Economic and Social Council; rules 1-7 of the rules of procedure of the Trusteeship Council. For the functions of the Secretary-General in the convening of special sessions of the General Assembly, see in this Repertory under Article 20.

29/ See in this Repertory under Article 20.

30/ For details, see, for example, rules 27-29 of the rules of procedure of the General Assembly; rules 13-17 of the provisional rules of procedure of the Security Council; rules 18 and 19 of the rules of procedure of the Economic and Social Council; rules 11-18 of the rules of procedure of the Trusteeship Council.

31/ The credentials of representatives to the General Assembly are examined by a Credentials Committee, and those of representatives to the Economic and Social Council are examined by the officers of the Council, with the assistance of the Secretariat.

32/ The credentials of all permanent representatives and heads of permanent missions to United Nations are also submitted to the Secretary-General; he is notified of any appointments and changes in the membership of permanent missions, and submits each year a report thereon to the General Assembly (G A resolution 257 (III)).

d. PROVISION OF STAFF AND SERVICES 33/

32. The Secretary-General provides and directs the staff required by the General Assembly, the three councils and their subsidiary organs, and is responsible for all the arrangements necessary for the meetings of these bodies. He attends the meetings personally, or is represented by an official of the Secretariat designated by him to act in his place.

33. The administrative arrangements and services for which the Secretary-General is responsible in connexion with meetings of United Nations organs and conferences cover a variety of fields such as the provisions of adequate meeting facilities, interpretation and translation services, distribution of documents, preparation and publication of records, issuance of communiqués and press releases, maintenance of archives, transport arrangements, and so forth. Although the performance of some of those functions is stipulated 34/ in the rules of procedure of some organs as a duty of the Secretariat, the Secretary-General is generally free to decide what arrangements and services he can most appropriately provide within the limits of the resources available to him.

*2. Transmission of communications*

34. All communications to and from the United Nations are transmitted through the Secretary-General. He receives the communications addressed to the Organization and brings them, as appropriate, to the attention of the organ concerned; communications between the various United Nations organs are also transmitted through him, and he is responsible for forwarding the texts of resolutions, reports, drafts and other documents adopted by United Nations organs to their members and to the States, organizations, or individuals concerned. In addition to his functions in connexion with the transmission of communications for the Organization, the depositary and other functions conferred upon the Secretary-General under various treaties and multilateral conventions also require him to fulfil similar functions in connexion with the transmission of communications between the parties to such agreements.

35. Express references to the functions of the Secretary-General in connexion with the transmission of communications are made in Articles 12 (2) and 110 (2) of the Charter, and in Articles 5 (1), 7 (2), 13 (4), 14, 18 (2), 36 (4), 40 (3), 67 and 70 of

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33/ Rules 45-63 of the rules of procedure of the General Assembly; rules 21-26 and 41-57 of the provisional rules of procedure of the Security Council; rules 28-46 of the rules of procedure of the Economic and Social Council; rules 23-35 and 44-49 of the rules of procedure of the Trusteeship Council.

34/ Rule 47 of the rules of procedure of the General Assembly provides that: "The Secretariat shall receive, translate, print and distribute documents, reports and resolutions of the General Assembly, its committees and organs; interpret speeches made at the meetings; prepare, print and circulate the summary records of the session; have the custody and proper preservation of the documents in the archives of the General Assembly; publish the reports of the meetings; distribute all documents of the General Assembly to the Members of the United Nations, and, generally, perform all other work which the General Assembly may require." Rule 33 of the rules of procedure of the Economic and Social Council provides that: "The Secretariat shall interpret speeches made at meetings; shall receive, translate and circulate the documents of the Council, its committees and subsidiary bodies; shall print, publish and circulate the records of the sessions, the resolutions of the Council and the relevant documentation required. It shall have the custody of the documents in the archives of the Council and generally perform all other work which the Council may require."

the Statute of the International Court of Justice. Specific responsibilities with regard to the receipt or forwarding of communications have also been entrusted to the Secretary-General under the rules of procedure 35/ of United Nations organs and under various resolutions 36/ adopted by them.

### 3. *Integration of activities*

36. The United Nations Preparatory Commission stated in its report 37/ that the Secretary-General "must endeavour, within the scope of his functions, to integrate the activity of the whole complex of United Nations organs and see that the machine runs smoothly and efficiently." While co-ordinating aspects are involved in many other functions of the Secretary-General, 38/ specific responsibilities for the integration of the activities of the various United Nations organs were entrusted to him in particular in the economic and social fields. Some of these responsibilities are summarized in the paragraphs below.

#### a. CALENDAR OF MEETINGS

37. At its fourth session, the Economic and Social Council requested 39/ the Secretary-General to submit to the Council at its last session each year a draft calendar, drawn up in consultation with the Administrative Committee on Co-ordination (ACC), concerning the programme of sessions of the commissions and sub-commissions of the Council and of the conferences of specialized agencies for the following year. At its seventh session, the General Assembly requested 40/ the Secretary-General to transmit to all organs of the United Nations and to the specialized agencies a conference pattern, based on a long-term plan permitting the proper utilization of staff and conference facilities both at Headquarters and Geneva. The Assembly,

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35/ See rules 4, 5, 8, 9, 10, 12, 135, 136 and 139 of the rules of procedure of the General Assembly; rules 6, 8, 11, 13, 55 and 58 of the provisional rules of procedure of the Security Council; rules 3, 4, 7, 12 and 85 of the rules of procedure of the Economic and Social Council; and rules 3, 4, 14, 15 (1), 24, 57, 68, 70, 72, 73, 80 (2), 82, 85 (1), 87, 89, 93, 99, 105 (2) and supplementary rules A, B, E, F, I, J, K and L of the rules of procedure of the Trusteeship Council. See also rules 4, 5 and 7 of the rules of procedure of the functional commissions of the Economic and Social Council.

36/ See, for example, E S C resolutions 277 (X) and 474 A (XV), under which the Secretary-General was requested to bring to the attention of the Economic and Social Council and the Governing Body of the International Labour Office respectively, allegations regarding the infringement of trade-union rights; G A resolutions 194 (III) and 289 A (IV), under which the United Nations Commissioner in Libya and the Conciliation Commission for Palestine respectively, were to submit their reports to the Secretary-General; and G A resolution 410 (V), instructing the Agent General of the United Nations Korean Reconstruction Agency (UNKRA) to submit reports to the General Assembly through the Secretary-General.

37/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. VIII, section 2, para. 12.

38/ For example, the preparation of the budget, the assignment of staff to various organs et cetera. The Charter refers expressly to one particular instance in which the responsibility for integrating the activities of United Nations organs is assigned to the Secretary-General, that of notifying the General Assembly of matters which are being dealt with by the Security Council (Article 12 (2)).

39/ E S C resolution 55 (IV).

40/ G A resolution 694 (VII).

further, recommended to all organs of the United Nations that they arrange their meetings in accordance with the dates and places set forth in the pattern presented by the Secretary-General, and invited the specialized agencies concerned to give due consideration to that pattern in drawing up their own programmes of meetings. The General Assembly, at its eighth session, reaffirmed 41/ that recommendation.

b. PLANNING OF WORK PROGRAMMES AND PRIORITIES

38. At its second session, the General Assembly requested its Advisory Committee on Administrative and Budgetary Questions to study the problem of programme planning and the setting up of a system for establishing work-priorities within the United Nations. The Advisory Committee reported 42/ to the General Assembly at its third session that, with regard to work planning and co-ordination, the Security Council was in a special position as much of its work could not be planned in advance, and that the activities of the Trusteeship Council involved relatively smaller co-ordination problems which could easily be dealt with by ad hoc arrangements. The Committee concluded that the greatest need for co-ordination existed in the economic and social fields, and that the Economic and Social Council could effectively discharge its responsibilities under Chapters IX and X only

"(ii) ... if the Secretary-General is enabled to furnish the detailed information required, with appropriate analyses, in such a manner as will ensure a constructive and critical judgment on the relative urgency and priority of projects.

"(iii) The Secretary-General's co-ordinating responsibility derives from his position under the Charter as the chief administrative officer for the United Nations. With his staff of experts in political, economic, social and legal fields and the flow of information on political, economic and social conditions throughout the world, he is in a privileged position to advise the Councils and the General Assembly on the urgency and priority of projects proposed by the Members or by the specialized agencies. The Committee accordingly urges that the Secretary-General should be assisted in every way in the exercise of this important function." 43/

39. The Secretary-General has, on a number of occasions, been requested to assist the Economic and Social Council in the exercise of its co-ordinating responsibilities. For instance, he has been requested:

a. To submit, from time to time, to the Economic and Social Council a descriptive catalogue of studies and investigations in the economic and social fields by the United Nations and specialized agencies; 44/

b. To submit to the Economic and Social Council an account of the current work programmes of the Economic and Social Departments of the Secretariat and of the commissions of the Council, with a description, where applicable, of their relationship

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41/ G A resolution 790 (VIII).

42/ G A (III), Suppl. No. 7 (A/534), p. 2.

43/ For a detailed summary of the practice of the Council and of other organs with regard to integration of activities in the economic and social fields, see in this Repertory under Article 60.

44/ E S C resolution 128 B (VI).

to similar activities carried on by the specialized agencies and by other organs of the United Nations; 45/

c. To assist the Economic and Social Council in its co-ordinating responsibilities by putting before it recommendations relating to a greater concentration of effort and available resources, and by supplying it with information on the cost and duration of proposed projects in the economic and social fields; 46/

d. To submit to all commissions of the Economic and Social Council suggestions for priorities for future work, including suggestions regarding projects which might be deferred or eliminated; 47/

e. To submit to the Economic and Social Council a draft programme on which the allocation of items to the forthcoming sessions of the Council is to be based. 48/

40. In a report 49/ submitted to the Economic and Social Council in connexion with a request by the General Assembly for a comprehensive review of the organization and work of the Secretariat, the Secretary-General referred to his functions in co-ordinating and integrating the economic and social work of the United Nations as follows:

"In conducting the survey of the Economic and Social Affairs Departments, an attempt has been made to assess how the substantive activities of the Secretariat (a) can best be directed towards the servicing of the Council and its commissions and sub-commissions; (b) can best provide a broad basis for policy assistance to the Council and the General Assembly in the economic and social fields; and (c) can best be organized so as to ensure a more effective integration of the programmes of economic and social development, with particular reference to United Nations technical assistance activities in this field.

"... ..

"I have also had in mind the question whether the original importance of particular activities may have diminished and whether efforts in new directions were now called for; and how far it is possible further to integrate the economic and social work of the United Nations, especially in respect of the technical assistance programme ... I have had to consider, further, how the administrative resources of the Secretariat should be distributed, what balance should be maintained between research and other activities, what system and arrangement of publications should be followed in order best to mobilize the limited resources of the Secretariat toward the accomplishment of its tasks. My primary aim is to ensure that the Secretariat can best fulfil the responsibilities placed upon it."

45/ Ibid.

46/ G A resolution 310 (IV).

47/ E S C resolution 402 B III (XIII), annex, para. 11. In making this recommendation, the Co-ordination Committee of the Economic and Social Council added that "The Secretary-General, within his existing authority, should have discretion as to the scheduling of work in order that the best use may be made of existing staff and resources and to take account of unforeseen circumstances which may arise."

48/ E S C resolution 557 (XVIII); see also para. 27 above.

49/ E S C (XVIII), Annexes, a.i. 29, p. 1, E/2598.

The Economic and Social Council endorsed 50/ the approach adopted by the Secretary-General, expressed its general approval of his suggestions for priorities and selection of programmes of work, and invited the Secretary-General to take appropriate action to put his suggestions into effect.

C. INTEGRATION OF ACTIVITIES RELATING TO OPERATIONAL PROGRAMMES

41. The Secretary-General has, on several occasions, been entrusted with co-ordinating functions in respect of the operational programmes carried out by various subsidiary organs and agencies of the United Nations. Thus, in one instance, the Secretary-General was requested 51/ to take all possible measures to ensure that technical assistance under the Expanded Programme was consistent with, and made the maximum contribution to, integrated plans of economic and social development. In another case, he was requested 52/ to ensure that the programmes carried on by the United Nations Children's Fund (UNICEF) continued to be co-ordinated effectively with the regular and technical assistance programmes of the United Nations and of the specialized agencies. In some instances, other organs have been directed to use the co-ordination services of the Secretary-General. For example, the General Assembly recommended 53/ to the Agent General of the United Nations Korean Reconstruction Agency that he maintain close contact with the Secretary-General for the purpose of ensuring fullest co-ordination of efforts of other United Nations organs in support of the programme of the Agency, and the Economic and Social Council decided 54/ that its Commission on International Commodity Trade should establish and maintain through the Secretary-General relations with other United Nations organs, specialized agencies, international study groups, and inter-governmental bodies concerned with the problem of primary commodities or with related questions.

d. CO-ORDINATION OF SERVICES TO UNITED NATIONS ORGANS

42. The Secretary-General is responsible for co-ordinating the provision of the various administrative services required for the functioning of United Nations organs so as to achieve the greatest possible effect with available resources. 55/ It is generally left to the discretion of the Secretary-General, subject to the budgetary limits established by the General Assembly, to make such arrangements as he deems necessary, and only in exceptional cases have other organs given the Secretary-General specific instructions on the subject. Such instances have included the request 56/ of the General Assembly that the Secretary-General exercise a strict control of documentation and enforce strict editorial policies to eliminate unnecessary and repetitious matter. At the same time the General Assembly has invited 57/ other organs of the United Nations to co-operate with the Secretary-General in his efforts to reduce the volume and at the same time to improve the quality of the documents of the United Nations.

43. The Secretary-General has been authorized 58/ to take all the steps necessary to ensure that the United Nations obtain the wave lengths, call signals, rights and

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50/ E S C resolution 557 A (XVIII).

51/ G A resolution 519 (VI).

52/ G A resolution 802 (VIII).

53/ G A resolution 410 (V).

54/ E S C resolution 557 F (XVIII).

55/ G A resolutions 593 (VI) and 789 (VIII). See also para. 33 above.

56/ G A resolution 593 (VI).

57/ G A resolution 789 (VIII).

58/ G A resolutions 158 (II) and 460 (V).

privileges necessary for the operation of a United Nations telecommunications system; he has also been requested 59/ to conclude the necessary arrangements for the issue of United Nations postage stamps and for other matters relating to the establishment and operation of a United Nations Postal Administration and of a United Nations Post Office Station.

#### *4. Co-ordination with specialized agencies and other inter-governmental organizations*

44. The primary responsibility for the co-ordination of policies and activities of specialized agencies rests, under the Charter, with the General Assembly and the Economic and Social Council. 60/ Some specific functions have, however, been entrusted in this connexion to the Secretary-General.

##### a. FUNCTIONS OF THE SECRETARY-GENERAL SET FORTH IN THE AGREEMENTS WITH THE SPECIALIZED AGENCIES 61/

45. The agreements 62/ between the United Nations and the various specialized agencies provide that representatives of the United Nations shall be invited to attend meetings of certain organs of the specialized agencies, and to participate without vote in the deliberations of those bodies; such representation is arranged by the Secretary-General. 63/ The Secretary-General also carries out the provisions of the agreements with respect to liaison, the exchange of documents and information, and consultation. Such consultations, 64/ may concern recommendations made to the agency by the United Nations, the provision of information, personnel matters, common administrative and technical services, preparation of budgets and financing of common or special services.

46. Pursuant to the agreements with the specialized agencies, the Secretary-General may enter into such supplementary arrangements for the implementation of the agreements as may be found desirable in the light of experience; such arrangements have been made in a number of instances. 65/

47. The agreements between the United Nations and the specialized agencies provide that each agency shall inform the Economic and Social Council of the nature and scope of any formal agreement into which it has entered with any other inter-governmental or non-governmental organization. At the ninth session of the Economic and Social Council, a proposal was made in the Co-ordination Committee of the Council under which ACC would have taken note of such agreements and brought them to the attention of the Economic and Social Council. In the course of the discussion, 66/ the view was expressed that the Secretary-General rather than ACC should perform those functions, and that the Secretary-General should be given discretion to inform the Council only of such aspects of the agreements as he saw fit. The representative of the Secretary-General suggested that the Secretary-General might make his recommendations to the Council after consultation with ACC. The suggestion was accepted, and the Council accordingly

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59/ G A resolutions 232 (III) and 454 (V).

60/ See in this Repertory under Articles 58, 59, 63 and 64.

61/ See also in this Repertory under Article 63.

62/ United Nations Publication, Sales No.: 1951.X.1.

63/ See paras. 142 and 143 below.

64/ For further details, see in this Repertory under Article 63.

65/ For example, supplementary agreements concerning the use of the United Nations *laissez-passer* by officials of the agencies.

66/ E/AC.24/SR.37.

approved a recommendation 67/ that the Secretary-General, in consultation with ACC, should examine agreements between the specialized agencies and other inter-governmental organizations, suggest any changes which might seem to be desirable and bring any points of importance to the notice of the Council.

b. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD  
TO PROGRAMME CO-ORDINATION

48. At its sixth session, the Economic and Social Council requested 68/ the Secretary-General to prepare, after consultation with the specialized agencies, a report on the action taken in pursuance of the agreements with the specialized agencies to develop effective co-ordination of the economic and social programmes of the United Nations and its subsidiary organs and the specialized agencies. It further requested him to bring to the notice of the Council, when transmitting to it reports from the specialized agencies, any matters to which its attention should be drawn for decision or other action in relation to its co-ordinating responsibilities under Articles 63 and 64. The General Assembly, at its third session, endorsed 69/ the view contained in a report 70/ of the Advisory Committee on Administrative and Budgetary Questions that the guidance of the Economic and Social Council in establishing priorities of programmes to be carried out by Member States through the specialized agencies should "be based upon advice from the Secretary-General, acting in conjunction with the heads of the specialized agencies", and that close Secretariat co-operation in matters of mutual concern to the United Nations and the agencies could prevent overlapping and duplication of activities. The Secretary-General was subsequently requested 71/ by the Economic and Social Council to indicate from time to time the broad fields of activity and objectives which, in his opinion and in that of ACC, should receive major emphasis and which might be tackled either by one agency or by the United Nations organs as a team.

49. When the problem of co-ordination between the United Nations and the specialized agencies was discussed 72/ at the sixth session of the General Assembly, a draft resolution was submitted under which the Secretary-General would be requested, with due regard to normal financial procedures, to make suggestions to the Council and its commissions concerning priorities and the co-ordination of programmes. In opposition to the draft resolution, it was stated that its adoption would give the Secretary-General excessively wide powers in matters which should remain within the competence of Governments, and that the Council should not delegate to the Secretary-General its statutory responsibilities for assigning priorities for future programmes. In support of the draft resolution, it was stated that the initiative for proposing the deferment, rejection or modification of projects could properly come from the Secretary-General. The draft resolution was adopted by the General Assembly and became resolution 533 (VI).

50. In another instance, the Economic and Social Council requested 73/ the Secretary-General to enlist the co-operation of the executive heads of the specialized agencies in making suitable arrangements to ensure that "in so far as possible, all proposals for surveys, meetings or programmes which concern more than one organization shall be the subject of inter-agency consultation prior to their adoption by the competent commissions, Councils or Assemblies concerned, with a view to achieving the full utilization of the co-ordinated resources of the various interested bodies."

67/ E S C resolution 259 (IX), annex, section IV, para. 8.

68/ E S C resolution 128 B (VI).

69/ G A resolution 210 (III).

70/ G A (III/1), Plen., Annexes, p. 224, A/675, paras. 9 and 10.

71/ E S C resolution 324 A (XI), annex, section I; E/1810, section I, para. 7.

72/ G A (VI), Joint 2nd and 3rd Com., 61st mtg., pp. 19-24.

73/ E S C resolution 324 B (XI).

51. The rules of procedure of the Economic and Social Council provide 74/ that "Before the Secretary-General places an item proposed by a specialized agency on the provisional agenda, he shall carry out with the agency concerned such preliminary consultation as may be necessary"; and that, whenever an item proposed for inclusion in the provisional agenda of the Council contains a proposal for new activities to be undertaken by the United Nations relating to matters which are of direct concern to one or more specialized agencies, the Secretary-General shall enter into consultation with the agency or agencies concerned and report to the Council on the means of achieving co-ordinated use of the resources of the respective agencies. When the provisional agenda of the Council contains a proposal aiming at the adoption of an international convention which contains provisions affecting the activities of a specialized agency, the Secretary-General also has the obligation to consult the agency concerned and to bring before the Economic and Social Council its comments.

52. The Secretary-General has frequently been entrusted with co-ordinating responsibilities in connexion with specific projects or activities of common interest to the United Nations and the specialized agencies. Such responsibilities have included consultations with specialized agencies as to arrangements for furnishing information or rendering other assistance in the carrying out of decisions of United Nations organs, 75/ and the preparation of programmes of concerted action in specific fields. 76/ Economic and Social Council resolution 417 (XIV), on international co-operation on water control and utilization and on the development of arid land, may serve to illustrate the type of co-ordinating functions which the Secretary-General has been requested to undertake with regard to specific projects. Under this resolution, the Secretary-General was requested, in consultation with the specialized agencies and other organizations concerned, to undertake the following tasks:

"(a) To assume responsibility for the promotion and co-ordination of international activities concerning water resource development and co-operative action among national authorities and international organizations in order to secure the maximum contribution to economic development through the effective development, control and use of water resources;

"(b) To promote the development of basic water resource data in furtherance of these objectives and in implementing Council resolution 345 (XII), and to promote international exchange of information and experience; and, in this connexion, to report on activities of international organizations and national authorities relating to water resources;

"(c) To prepare reports for the Council periodically on the progress of the activities relating to water resources which are being carried out by international organizations, the reports to include such recommendations as may be appropriate for the better co-ordination and balanced development of their activities;

"(d) To prepare recommendations to the Council for the promotion of international co-operation and activity in those fields and in those geographic areas which may

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74/ Rules 79, 80 and 81 of the rules of procedure of the Economic and Social Council.

75/ See E S C resolution 363 (XII) with regard to action under G A resolution 377 (V), entitled "Uniting for peace".

76/ See, for example, E S C resolution 496 (XVI), entitled "Programme of concerted practical action in the social field of the United Nations and the specialized agencies".

not be adequately covered by international organizations, giving special attention to the problems of the interrelated aspects of water resource development; and

"(e) In carrying out the task entrusted to him:

"(i) To consider the suggestions of Member States;

"(ii) To secure the co-operation of the regional economic commissions in relation to those problems which are essentially regional in character;

"(iii) To seek the advice of experts as may be necessary;

"(iv) To collaborate with the United Nations Educational, Scientific and Cultural Organization, the Food and Agriculture Organization and other specialized agencies concerned in their study of the problems presented by the arid zones;

"(v) To establish, through the Administrative Committee on Co-ordination and, as appropriate, the Technical Assistance Board, inter-agency arrangements for continuing consultation with the interested specialized agencies, and, where appropriate, with scientific and technical societies and other organizations having important responsibilities, experience or interest in fields related to water resources;"

53. The Secretary-General has also been entrusted with the function of reporting to the Economic and Social Council on other inter-governmental organizations having responsibilities similar to those of the United Nations or the specialized agencies but not brought into relationship with the United Nations. <sup>77/</sup> In this connexion, the Secretary-General, in addressing the Economic and Social Council at its eighteenth session on the subject of the report of ACC, stated <sup>78/</sup> that while it was proper for the United Nations and the specialized agencies to establish contacts at the Secretariat level with other inter-governmental organizations so as to avoid an overlapping of their activities, such contacts should not be considered as an attempt "to incorporate the various bodies into a system of co-operation at all comparable with the co-operation existing between the various organizations within the United Nations."

54. The Secretary-General has been requested to enter into consultations with certain inter-governmental organizations, with a view to submitting to the Council plans for their integration with the United Nations, or for other possible forms of relationship between such organizations and the United Nations or a specialized agency. The Council has also requested the Secretary-General to render such assistance as may be appropriate in the transfer of functions and assets of certain inter-governmental organizations to specialized agencies. <sup>79/</sup>

C. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO  
CO-ORDINATION IN ADMINISTRATIVE AND FINANCIAL MATTERS

55. The authority to consider and approve financial and budgetary arrangements with specialized agencies and to examine the administrative budgets of specialized agencies is vested in the General Assembly. However, the Secretary-General has been requested to make recommendations to the General Assembly in these matters and to take steps, in

<sup>77/</sup> E S C resolutions 128 (VI) and 171 (VII).

<sup>78/</sup> E S C (XVIII), 807th mtg., p. 105, para. 18.

<sup>79/</sup> E S C resolutions 262 (IX) and 333 (XI).

consultation with the administrative heads of the specialized agencies, with a view to developing, whenever practicable, uniform administrative and financial practices and common administrative and technical services for the United Nations and the specialized agencies. 80/

56. An instance in which the General Assembly has approved the principle of the pooling of the services provided by the United Nations and the specialized agencies is set forth below. By resolution 595 (VI), the General Assembly recommended that the Secretary-General be guided by that principle in connexion with the public information activities of the United Nations. However, when the subject was discussed again at the eighteenth session of the Economic and Social Council, the Secretary-General stated 81/ that, while there could be no doubt about the need for a central co-ordinating body to deal in general terms with information about the "United Nations family problem", a concentration in the United Nations Secretariat of information services concerning specific activities of specialized agencies might prove far from helpful, and that a balance between the two problems should be found.

#### *5. Functions of the Secretary-General with regard to the preparation of work and implementation of decisions*

57. The Preparatory Commission of the United Nations stated 82/ in its report that the Secretary-General shall be responsible "for the preparation of the work of the various organs and for the execution of their decisions, in co-operation with the Members". In this connexion, it may be noted that the General Assembly, at its second session, adopted resolution 103 (II), the operative part of which read as follows:

"The General Assembly

"Draws the attention of the three Councils and their Commissions, as well as of the Commissions appointed by the Assembly itself, to the desirability of utilizing to the utmost the services of the Secretariat, and

"Recommends specifically to the respective organs of the United Nations to consider carefully, before the creation of special commissions and sub-committees, whether the task to be carried out could not usefully be entrusted to the Secretariat."

At the same session, the General Assembly, by resolution 175 (II), instructed the Secretary-General to undertake the necessary preparatory work for the beginning of the activity of the International Law Commission. The preamble of this resolution expressly referred to Article 98.

58. Reference is made in other studies in this Repertory to the functions entrusted to the Secretary-General in the preparation of the work of the various organs and in the execution of their decisions. 83/ With a few exceptions, the Secretary-General has, in all instances, assumed some degree of responsibility, ranging from responsibility for the circulation of a document to that for the preparation of comprehensive studies and the presentation of proposals, with regard to all items discussed by United Nations organs. Similarly, the great majority of decisions taken

80/ See in this Repertory under Article 17 (3).

81/ E S C (XVIII). 807th mtg., p. 104, para. 11.

82/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. VIII, section 2, para. 12.

83/ See in this Repertory under Articles 13, 17 (1), 30, 34, 55, 62 (1) and (3), 66 (2), 73 and 102.

by United Nations organs have required the Secretary-General to assume, in connexion with their implementation, some measure of responsibility, either indirect and ancillary, such as the communication of the decision to the Government or organ concerned, or direct and operative, such as the carrying out of negotiations or the execution of a programme of work of a substantive nature.

59. The Secretary-General has also assumed responsibility for keeping United Nations organs informed of the current status of the implementation of their decisions and recommendations. <sup>84/</sup> Under several resolutions, <sup>85/</sup> the Secretary-General has been invited to inform the organ concerned of any significant developments or events pertinent to the carrying out of the decision in question. In a more general manner, the General Assembly, by resolution 436 (V), requested the Secretary-General to report to it on the measures taken by the Administering Authorities to implement the resolutions of the Trusteeship Council and of the General Assembly relating to Chapters XII and XIII and, if there has been no action on the part of an Administering Authority with respect to any particular resolution, to set forth the reasons given concerning that matter.

#### *6. Functions of the Secretary-General in connexion with international treaties, conventions and agreements<sup>86/</sup>*

60. The Secretary-General has been entrusted with depositary and other functions under some sixty multilateral conventions. A number of these conventions has been prepared under United Nations auspices, <sup>87/</sup> and the provisions by which the Secretary-General has been entrusted with specific responsibilities have received the express or implied approval of the organ recommending the adoption of the convention in question. In addition, under General Assembly resolution 24 (I), the Secretary-General was authorized to perform the functions "pertaining to a Secretariat" which were originally entrusted to the League of Nations under various treaties and international agreements. He subsequently expressed his willingness to accept, in general, the custody of international instruments whenever the parties so desired, and has so advised all Members of the United Nations. <sup>88/</sup>

61. The majority of the conventions which the Secretary-General has accepted in his custody stipulate that States may become parties thereto by depositing with the Secretary-General an instrument of ratification, acceptance or accession, and that the Secretary-General shall notify the other States concerned of any such action. Other functions which the Secretary-General performs pursuant to the terms of the conventions for which he serves as a depositary, include the following: notification of the parties and of other interested States of the date of entry into force of the convention in question, of reservations to the convention, and of denunciations of the convention; the receipt of instruments extending the application of the convention to colonies or possessions of a party or to protectorates or Trust Territories under its administration,

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<sup>84/</sup> For functions of the Secretary-General with regard to the implementation of recommendations made by the Economic and Social Council, and of recommendations of the General Assembly on matters falling within the competence of the Council, see in this Repertory under Article 64.

<sup>85/</sup> For example, G A resolutions 385 (V) and 517 (VI).

<sup>86/</sup> For functions of the Secretary-General in connexion with the registration and publication of treaties, see in this Repertory under Article 102.

<sup>87/</sup> For text of relevant provisions of such conventions, see United Nations Publications, Sales No.: 1952.V.20.

<sup>88/</sup> A/65, p. 37.

and the notification of such acts to other parties and other interested States; issuance of certified copies of the convention; and the circulation of information or documents which the parties have undertaken to communicate to each other.

62. Some of the conventions with regard to which the Secretary-General performs depositary functions list the States, or define the categories of States, to which notifications of the deposit of various instruments relating thereto should be sent. However, in practice the Secretary-General also arranges for such notifications where they are not obligatory under the terms of the convention in question, and, as a rule, he addresses such notifications to all States Members of the United Nations and to all other States which are entitled to become parties to the convention. 89/

63. At the fifteenth session of the Economic and Social Council, in connexion with the discussion of a proposal to transfer to the United Nations the functions formerly exercised by the League of Nations under the International Slavery Convention of 1926, one representative questioned the authority of the Secretary-General to perform, without specific agreement of the parties to each particular convention, the functions entrusted originally to the Secretary-General of the League of Nations. As noted in the summary record, the representative of the Secretary-General replied 90/ as follows:

"[The Secretary-General] had unquestionably been given the authority [to perform these functions] by resolution 24 (I) of the General Assembly, which had listed the functions formerly entrusted to the Secretary-General of the League of Nations to be transferred to the Secretary-General of the United Nations. Those functions did not affect the operation of the instruments and did not relate to the substantive rights and obligations of the Parties thereto, but were simply those customarily performed by a depositary. The Secretary-General had performed such functions as the receipt of instruments of ratification from States not originally Parties to a convention or denunciations by those who had been Parties in respect of other League Conventions, notably in the case of the withdrawals from the International Relief Convention pursuant to a resolution by the Economic and Social Council.

"The authority of the Secretary-General under resolution 24 (I) had never been questioned.... No government was bound to make use of the Secretary-General's services in that connexion; but the Secretary-General was bound to take action when required to do so. No agreement was necessary for the transfer of the Secretary-General's responsibilities, since they were solely depositary."

The Economic and Social Council nevertheless recommended that the General Assembly invite the States concerned to agree to the transfer to the United Nations of the functions undertaken by the League of Nations under the International Slavery Convention of 1926. 91/ At the eighth session of the General Assembly, during the discussion of a draft resolution based upon this recommendation in the Sixth Committee, the question of the need to provide the Secretary-General with a specific authorization to perform the treaty functions previously exercised by the League of Nations was raised again. The relevant report 92/ of the Sixth Committee to the General Assembly stated that:

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89/ For the oral statement of the representative of the Secretary-General of 10 April 1951, see Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, I C J, Oral Statement (Extract), p. 5.

90/ E/AC.7/SR.232, pp. 3 and 4.

91/ E S C resolution 475 (XV).

92/ G A (VIII), Annexes, a.i. 30, A/2517, p. 3.

"the Committee's attention was drawn to General Assembly resolution 24 (I) on the transfer to the United Nations of certain functions and activities of the League of Nations and to the resolution of the League of Nations Assembly of 18 April 1946. The United Nations General Assembly stated in section I of resolution 24 (I) that the Organization was prepared to accept the custody of international instruments formerly entrusted to the League of Nations and to charge the Secretariat of the United Nations with the task of performing for the parties the functions, pertaining to a secretariat, formerly entrusted to the League of Nations and set forth in part A of that resolution. There was therefore no need for a protocol for the transfer of such functions."

The sponsor of the above-mentioned draft resolution, which would provide for the transfer to the United Nations of the functions exercised by the League of Nations under the International Slavery Convention of 1926 by means of a Protocol, stressed 93/ the purely formal character of the accompanying Protocol; he felt that its adoption would cast no doubt whatever on the depositary functions exercised by the Secretary-General under the terms of General Assembly resolution 24 (I). The draft resolution was adopted by the General Assembly and became resolution 794 (VIII).

64. In the exercise of his functions as the depositary of multilateral conventions, the Secretary-General has, from time to time, been concerned with the procedure to be followed with respect to reservations made by States as a condition of their accession to such conventions. In the absence of stipulations in a particular convention regarding the procedure to be followed, the Secretary-General has not accepted in definitive deposit instruments of ratification or accession offered with a reservation until he has obtained the consent, expressed or implied, of all the States which had become parties to the convention up to the date on which the reservation was offered; if the convention has not yet entered into force, instruments of ratification or accession offered with a reservation have been accepted by the Secretary-General in provisional deposit, subject to the consent to the reservation of all States which have ratified it or acceded to it by the date of entry into force. 94/

65. In connexion with the Convention on the Prevention and Punishment of the Crime of Genocide, several States have recorded their dissent from the terms of some of the reservations made by other States with regard to specific articles of the Convention. In his report 95/ to the General Assembly at its fifth session, the Secretary-General expressed the view that the interested parties foresaw different legal consequences deriving from those dissents; he therefore submitted to the General Assembly for approval and advice the procedure followed by him with regard to deposits of instruments containing reservations. At its fifth session, the General Assembly decided to submit the question to the International Court of Justice for an advisory opinion and instructed 96/ the Secretary-General to continue in the meanwhile his prior practice, without prejudice to the legal effect of objections to reservations to conventions as it might be later recommended by the General Assembly. At its sixth session, the General Assembly requested 97/ the Secretary-General:

"(a) In relation to reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, to conform his practice to the advisory opinion 98/ of the Court of 28 May 1951;

93/ Ibid.

94/ G A (V), Annexes, a.i. 56, p. 2, A/1372.

95/ Ibid.

96/ G A resolution 478 (V).

97/ G A resolution 598 (VI).

98/ Reservations to the Convention on Genocide, I C J, Reports 1951, p. 15.

"(b) In respect of future conventions concluded under the auspices of the United Nations of which he is the depositary:

"(i) To continue to act as depositary in connexion with the deposit of documents containing reservations or objections, without passing upon the legal effect of such documents; and

"(ii) To communicate the text of such documents relating to reservations or objections to all States concerned, leaving it to each State to draw legal consequences from such communications."

66. The Secretary-General has also been entrusted with some specific functions under treaties which were not concluded under United Nations auspices. Thus, under the treaties of peace with Italy, Bulgaria, Finland, Hungary, and Romania, the Secretary-General was authorized, upon request of either party to a dispute concerning the interpretation or execution of those Treaties, to appoint the third member of a Treaty Commission if the parties themselves failed to agree upon the appointment of the third member. 99/

#### *7. Functions of the Secretary-General in respect of the submission of an annual report*

67. The second sentence of Article 98 provides that "The Secretary-General shall make an annual report to the General Assembly on the work of the Organization." The Secretary-General has accordingly submitted to the General Assembly at each regular session a report covering the period up to 30 June of that particular year. 100/

68. The form and contents of the annual report on the work of the Organization are left to the discretion of the Secretary-General. Each of his annual reports, with the exception of his first report, has included an introduction, which appeared as part of the main report or as a supplement published separately, 101/ followed by chapters entitled, "Political and Security Questions", "Economic and Social Developments", "Questions concerning Trusteeship and Non-Self-Governing Territories", "Legal Questions", "Development of Public Understanding", and "Administrative and Budgetary Questions". The first annual report which contained all the chapters mentioned above, although under other headings, also included two additional chapters, entitled "Transfer of certain Activities and Assets of the League of Nations" and "Establishment of the Temporary and Permanent Headquarters of the United Nations in the United States of America"; the chapter entitled "Administrative and Financial Services" was divided into three separate parts, one of which dealt with organization and administration, and another with budgetary and financial administration, while the third part dealt with manuals and internal circulars.

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99/ United Nations Treaty Series, vol. 41, 1949, I, Nos. 643 and 644; vol. 42, 1949, I, No. 645; vol. 48, 1950, No. 746; vol. 49, 1950, I, No. 747.

100/ The first annual report of the Secretary-General was published as document A/65; the subsequent annual reports were published as Supplement No. 1 to the Official Records of the respective sessions of the General Assembly. See also in this Repertory under Article 15.

101/ See also para. 119 below.

69. In accordance with rule 48 of the rules of procedure of the General Assembly, 102/ the Secretary-General must communicate his annual report to the Members of the United Nations at least forty-five days before the opening of the session, and he must make such supplementary reports as may be required. At the second part of the first session of the General Assembly, the Secretary-General made an oral supplementary report 103/ on the work of the Organization. The annual reports of the Secretary-General to the General Assembly at its sixth and seventh sessions, as communicated to Members forty-five days before the opening of the respective sessions, did not contain the introduction; the Secretary-General stated in the foreword to those reports that he would submit the introduction, as an addendum to his report, at a date closer to the opening of the session. In the introduction to his annual report to the General Assembly at its seventh session, the Secretary-General stated 104/ that he would submit the introduction at a later date, "in accordance with the precedent established last year."

70. The annual report of the Secretary-General on the work of the Organization is included in the provisional agenda of the General Assembly at each regular session. 105/ At its first session, the General Assembly adopted a recommendation of the General Committee that the report of the Secretary-General, together with the reports of the Security Council and of the Economic and Social Council, should form the basis of the general discussion in the Assembly. 106/ The rules of procedure of the General Assembly provide 107/ that "Proposals to refer any portion of the report of the Secretary-General to one of the Main Committees without debate shall be decided upon by the General Assembly without previous reference to the General Committee", but no such proposal has ever been made. The General Assembly has not adopted any resolution concerning the annual reports submitted to it by the Secretary-General. 108/

## B. Technical functions of the Secretary-General

### 1. *Functions of the Secretary-General with regard to the collection of information and the undertaking of studies* 109/

71. The United Nations Preparatory Commission noted in its report that the functions to be performed by the Secretary-General in the preparation of the work of the various organs and in the execution of their decisions would have technical as well as administrative aspects. The Commission stated that:

"More particularly as regards the work of the Economic and Social Council and the Trusteeship Council, the expert technical assistance which the Secretary-General is able to provide, and which he himself must control, will clearly affect the degree in which these organs can achieve their purposes." 110/

102/ United Nations Publication, Sales No.: 1954.I.17.

103/ G A (I/2), Plen., 35th mtg., pp. 693-703.

104/ G A (VII), Suppl. No. 1 A (A/2141/Add.1), p. 1.

105/ See rule 13 of the rules of procedure of the General Assembly.

106/ G A (I/2), Plen., 35th mtg., p. 704.

107/ Rule 65.

108/ Representatives have, however, referred in the course of the general debate to statements made in the annual report of the Secretary-General, and a reference to it is made in General Assembly resolution 114 (II).

109/ For functions of other organs in this field, see in this Repertory under Articles 13 (General Assembly), 34 (Security Council), 62 (Economic and Social Council), 87 and 88 (Trusteeship Council).

110/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. VIII, section 2, para. 13.

One important technical aspect of the functions of the Secretary-General is the collection of information and the preparation of studies and reports with regard to questions dealt with by United Nations organs.

72. The reports prepared by the Secretary-General have ranged in scope from simple enumerations of data to comprehensive analytical studies containing conclusions or recommending the adoption of specific measures. While factual reports or informal working papers have frequently been prepared and presented by the Secretary-General on his own initiative, major surveys and studies have usually been undertaken at the request of other organs. The rules of procedure of both the Economic and Social Council and the Trusteeship Council provide that any agenda items may be referred to the Secretary-General for study and report at a subsequent session. 111/ The rules of procedure of the Economic and Social Council and of its functional commissions expressly provide 112/ that the Secretary-General shall be responsible for keeping the members of the Council (or commissions) informed of any questions which may be brought before it for consideration; in practice, the Secretary-General has also assumed such responsibility with regard to other organs. The provisional rules of procedure of the Security Council provide 113/ that the Council may invite members of the Secretariat to supply it with information or to give other assistance in examining matters within the competence of the Council. While the rules of procedure of other organs do not contain such a provision, the Secretary-General has often been requested by them to provide such services. 114/

73. While the Secretary-General has prepared studies, surveys or memoranda in connexion with nearly every major aspect of the activities of the United Nations, proportionally the greatest demand for such services has related to the economic and social fields. When the contribution which the Secretariat could make to the substantive work in those fields was reviewed by the Economic and Social Council at its eighteenth session, the Secretary-General, according to the *summary record*, stated 115/ as follows:

"23.] ... it must be recognized that in any international enterprise of the scope of the United Nations there was a danger of dispersion of efforts and resources over too many projects. The very nature of the responsibilities that must be assumed by the Secretary-General and his senior staff imposed a limit upon the volume of tasks that could be handled effectively, ...

24.] "A decision therefore had to be taken with due regard to considerations such as whether a particular task was one that an international secretariat could perform efficiently and effectively; whether it was designed to meet an urgent and vital need essential for the proper functioning of the United Nations and its principal organs; whether the desired result could not be adequately achieved through independent and unassisted national action; whether the original importance or usefulness of certain activities had diminished, or, alternatively, whether, having regard to the dynamic nature of United Nations operations, new efforts were called for in new directions;

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111/ See rule 15 of the rules of procedure of the Economic and Social Council and rule 56 of the rules of procedure of the Trusteeship Council.

112/ See rule 30 of the rules of procedure of the Economic and Social Council and rule 25 of the rules of procedure of the functional commissions of the Economic and Social Council.

113/ Rule 39.

114/ See also paras. 85 and 86 below.

115/ E S C (XVIII), 796th mtg., paras. 23-25.

and whether in a particular field of inquiry or research full account had been taken of work already done either nationally or internationally and of the practical possibilities that therefore existed of making a new and significant contribution. It went without saying that the final responsibility for deciding on programmes and priorities rested with States Members.

[25.] "Feeling that it was the Secretary-General's obvious duty to offer advice and express an opinion whenever he deemed it helpful and pertinent to do so, he had submitted to the Council a number of proposals looking towards a shift in emphasis from some of the existing information services and clearing-house activities, a more limited framework for the prosecution of certain work requested of the Secretariat in order to bring it within the true sphere of the Secretariat's competence, the reconsideration of certain low-priority projects by the organs concerned, the recognition of the full responsibility of specialized agencies for particular tasks clearly within their mandate, the assumption, under the Secretariat's general guidance, of certain research, training and other tasks by universities and other private institutions, and a reduction in the number and length of documents, including the discontinuance or reduction in frequency of certain periodicals."

74. In his report 116/ to the Economic and Social Council at its eighteenth session, the Secretary-General proposed that "In all categories of economic work efforts should be made to shift the emphasis from general research to activities directly related to the formulation of policy and to economic development." Activities would be concentrated on studies of global aspects of the economic situation, such as the World Economic Report, and on reviews of developments of a world-wide character which only the United Nations was in a position to provide. Steadily increased emphasis should be placed on areas of work which directly assisted Governments in raising standards of living and "on the preparation of materials which the governments of the under-developed countries require as direct instruments of policy-making and administration, but which they are not in a good position to prepare for themselves." On the other hand, the compilation of the type of information to be found in other publications or which contributed relatively little to priority objectives, would be discontinued. The Secretary-General also proposed that detailed work on certain projects and studies should be carried out by universities and other institutions in various countries, in accordance with plans and specifications to be drawn up by the Secretariat. The Secretary-General attached the greatest importance to the discretion accorded to him in regard to the scheduling of work and the use of the staff and resources of the Secretariat.

75. In the course of discussion, 117/ the majority of the members of the Council agreed with the Secretary-General that it was necessary to eliminate as far as possible Secretariat studies and publications which were not essential to the policy discussions of the Council and its commissions, and to avoid duplication with existing international or national publications. Some representatives, however, expressed the view that the practice of delegating highly complex or specialized tasks to research institutions, non-governmental organizations or experts should never be allowed to upset the balance between the various cultures and languages of Member States; that research work played a vitally important role in the Secretariat, that the most

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116/ E S C (XVIII), Annexes, a.i. 29, p. 1, E/2598.

117/ E S C (XVIII), 796th-798th mtgs., pp. 19-38.

important of the present studies and reviews should remain the concern of the Secretariat; and that it would be desirable that the Secretary-General take up with the functional commissions concerned any proposals for the elimination of studies and publications which had originated with them and had been formally approved by the Council.

76. During the discussions, the Secretary-General stated 118/ that, as a result of the development of long-term work programmes for the Secretariat, the need for the commissions of the Council to exercise general supervision of policy and work would not be as pressing as it had been in the formative years of the Organization. In that connexion, one representative held that "Everything appertaining to State policy should continue to be reserved for governmental committees or organs, and only technical questions of international concern should be studied by international organizations with authority to make proposals".

77. The Council, by resolution 557 A (XVIII), expressed its general approval of the suggestions submitted by the Secretary-General for planning the programme of work of the Secretariat; it invited the Secretary-General to submit to the competent commissions, for their consideration, his plans regarding publications and studies and, pending consideration by the commissions and any further action by the Council, to proceed with his plans and to take such action as was appropriate to put his suggestions into effect.

## *2. Operational functions of the Secretary-General*

78. The administration of comprehensive operational programmes constitutes a further aspect of the technical functions of the Secretary-General. These programmes relate to such matters as technical assistance for the economic development of under-developed countries, 119/ advisory social welfare services, 120/ technical assistance in public administration, 121/ freedom of information, 122/ rights of women, 123/ protection of minorities 124/ and other fields relating to social development, 125/ statistical and cartographic services, 126/ a programme of work to make evidence of customary international law more readily available 127/ et cetera.

79. In approving the United Nations Programme of Technical Assistance, 128/ the General Assembly decided 129/ to appropriate the funds necessary to enable the Secretary-General to perform the following functions:

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- 118/ E S C (XVIII), 796th mtg., p. 26.
  - 119/ E S C resolution 51 (IV) and G A resolutions 200 (III) and 518 (VI).
  - 120/ G A resolutions 58 (I), 316 (IV) and 418 (V); E S C resolution 309 (IX).
  - 121/ G A resolutions 246 (III) and 723 (VIII).
  - 122/ G A resolution 839 (IX).
  - 123/ G A resolution 729 (VIII).
  - 124/ G A resolution 730 (VIII).
  - 125/ E S C resolution 496 (XVI) and G A resolution 732 (VIII).
  - 126/ E S C resolutions 8 (II) and 131 (VI).
  - 127/ G A resolution 487 (V); see in this Repertory under Article 13 (1) (a) with regard to the encouragement of the progressive development of international law and its codification.
  - 128/ See in this Repertory under Article 66 (2).
  - 129/ G A resolution 200 (III).

"(a). Arrange for the organization of international teams consisting of experts provided by or through the United Nations and the specialized agencies for the purpose of advising those Governments in connexion with their economic development programmes,.....

"(b) Arrange for facilities for the training abroad of experts of under-developed countries through the provision of fellowships for study in those countries or institutions which, in the particular fields of study, have achieved an advanced level of technical competence;

"(c) Arrange for the training of local technicians within the under-developed countries themselves by promoting visits of experts in various aspects of economic development for the purpose of instructing local personnel and for assisting in the organization of technical institutions;

"(d) Provide facilities designed to assist Governments to obtain technical personnel, equipment and supplies, and to arrange for the organization of such other services [including the organization of seminars and exchange of information] as may be appropriate in the promotion of economic development".

The Secretary-General was instructed to undertake the above-mentioned functions "in agreement with the Governments concerned, on the basis of requests received from Governments with due regard to geographical considerations". He was given discretion to decide, subject to review by the Economic and Social Council, the amount of services to be performed and the financial conditions under which they would be rendered to Governments.

80. Under the various resolutions 130/ concerning advisory social welfare services, the Secretary-General has been authorized to perform the following functions:

- a. To provide social welfare experts for the purpose of advising Governments and putting into practice new methods in any branch of social welfare;
- b. To make arrangements for social welfare officials to observe the practice of other countries in their fields;
- c. To make arrangements for the training of suitably qualified persons in foreign countries;
- d. To plan, organize and participate in projects for experimenting in or demonstrating various phases of social welfare, and to provide the necessary tools and equipment in connexion therewith;
- e. To furnish technical publications and films;
- f. To plan and conduct seminars.

The Secretary-General was instructed 131/ to have due regard to the suggestions made by the Governments concerned in selecting the experts and services to be provided by him, and to select grant-holders on the basis of proposals received from Governments; at the same time, he was given the authority to decide upon the amount of services to be provided and the conditions under which they should be furnished to the various

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130/ See footnote 120 above.

131/ G A resolution 418 (V).

Governments. The Secretary-General was also requested 132/ to plan co-ordinated international programmes for the social rehabilitation of the physically handicapped, and, in that connexion, to expand the existing facilities for the preparation of training materials and to arrange for the dissemination of technical information.

81. At its sixteenth session, the Economic and Social Council considered a report 133/ by the Secretary-General on a programme of concerted practical action in the social field. By resolution 496 (XVI), the Council noted with satisfaction the suggestions contained in the report and requested the Secretary-General to apply, in matters of assistance to Governments, the following general principles:

"(a) The inter-related character of economic and social factors and the benefits to social progress resulting from a balanced expansion of world economy require that economic development and social development go hand-in-hand with a view to improving standards of living; projects financed by the United Nations and the specialized agencies should be selected bearing in mind this inter-relationship;

"(b) Such projects should be concerted with integrated plans for economic and social development prepared by each of the beneficiary governments;

"(c) Such projects should yield early and permanent results and reach a maximum number of people;

"(d) Such projects should be adapted to the geographic, economic, social and demographic conditions of the country concerned, and studies of these conditions essential to effective practical projects should be undertaken but should not delay action to meet urgent needs;

"(e) The participation of appropriate non-governmental organizations in the implementation of international programmes in the social field should be encouraged and their experience, competence and facilities utilized to the fullest extent".

The Council also specifically authorized the Secretary-General to

"take early action, on an experimental basis and at the request of the governments concerned, to convene one or more small groups of senior policy-making representatives of governments having similar social and economic problems and of representatives of the Secretariats of the United Nations and the specialized agencies concerned, to plan concrete programmes for expansion of community development projects, including training facilities and the strengthening of organizations for administering social programmes related to community development in their respective countries."

82. An example of another type of operational function performed by the Secretary-General was that discharged by him in connexion with the United Nations Appeal for Children. In accordance with the relevant resolutions 134/ of the Economic and Social Council, he arranged, in agreement with the Governments concerned, for the setting up of national committees through which a world-wide appeal was launched for voluntary contributions for the relief of children, co-ordinated the national appeals and

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132/ E S C resolution 309 (XI).

133/ E/CN.5/291 and Corr.3.

134/ E S C resolutions 45 (IV) and 80 (V).

provided the national committees with information, publicity material and other facilities, and concluded the necessary arrangements for utilizing national collections for the purposes set forth in these resolutions.

### 3. *Functions of the Secretary-General in connexion with assistance in procedural problems*

83. The Secretary-General, or the official representing him at any given meeting, is called upon to give explanations or advice on points of procedure arising in connexion with the work of United Nations organs. As a rule, such assistance on procedural questions is given in informal consultations with the presiding officer, but in a few instances the representatives of the Secretary-General have explained procedural points and have made suggestions on dealing with them in formal statements to the meeting.

84. At its third session, the General Assembly established a special committee to consider methods and procedures which would enable the Assembly and its committees to discharge their functions more effectively and expeditiously. 135/ In its report 136/ to the General Assembly at its fourth session, the Special Committee on Methods and Procedures stated that the Secretary-General should place his experience and all his authority at the disposal of the Chairmen of the Main Committees of the Assembly, in order to assist them in guiding the proceedings of these bodies in the best interest of the Members. The Special Committee also noted with approval

"... the Secretariat's valuable practice of holding daily meetings of the committee secretaries under the chairmanship of the Executive Assistant to the Secretary-General, where the procedural questions arising from day to day in the General Assembly and committees are thoroughly examined."

85. The Secretary-General assists United Nations organs and conferences held under United Nations auspices in the drafting of their rules of procedure, and makes proposals for improving their procedures. The General Assembly has, on several occasions, 137/ invited the Secretary-General to collaborate closely with its Special Committee on Methods and Procedures, to carry out appropriate studies, and to submit to the Committee, as he might consider appropriate, proposals for the improvement of the methods and procedures of the General Assembly. The Secretary-General has also been requested to prepare reports and proposals on specific procedural questions; he has, for example, been requested to propose such changes as he might deem necessary in the rules of procedure of the General Assembly relating to the election of Member States to the three Councils; 138/ to report on the question of the majority required in the General Assembly for the adoption of amendments to and parts of proposals relating to important questions; 139/ and to report on the practical consequences of a change in the opening date of regular sessions of the General Assembly. 140/

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135/ See in this Repertory under Article 21.

136/ G A (IV), Suppl. No. 12 (A/937), para. 39; the recommendations of the Special Committee were approved by General Assembly resolution 362 (IV) and incorporated as annex I in the rules of procedure of the General Assembly.

137/ G A resolutions 271 (III), 362 (IV) and 597 (VI).

138/ G A resolution 33 (I).

139/ G A (V), Annexes, a.i. 49, p. 6, A/1433; G A resolutions 362 (IV) and 475 (V).

140/ G A resolution 692 (VII).

*4. Functions of the Secretary-General in connexion with  
the drafting of documents and legal assistance*

86. The Secretary-General has frequently been called upon to advise United Nations organs on legal questions involved in their decisions or to assist them in the drafting of documents. In some instances, the Secretary-General has been requested to prepare the drafts of reports, conventions or other documents himself, and to present such drafts to the competent United Nations organs for their consideration or to circulate them to Member Governments and other organizations for comments. 141/ For example, the Secretary-General has been requested:

a. To prepare and submit to a committee of the General Assembly a preliminary draft convention relating to the establishment of an international criminal court, and proposals for its statute; 142/

b. To draft such technical clauses as were necessary to complete the draft Constitution of the International Refugee Organization from a legal point of view, and to transmit copies of the completed document to Members of the United Nations; 143/

c. To undertake, with the assistance of experts in the field of international and criminal law, the necessary studies with a view to drawing up a draft convention on the crime of genocide; 144/

d. To prepare the draft of a comprehensive convention for the suppression of the traffic in women and children and the prevention of prostitution, to ascertain the views of the Governments and international organizations concerned, and to submit the draft convention and any views expressed to the Social Commission. 145/

87. In a number of instances, the Secretary-General has been requested to give his opinion on legal questions which have arisen in connexion with matters considered by United Nations organs. Some examples of the questions with respect to which the Secretary-General has been requested to furnish a legal opinion are set forth below. (1) The question of the competence of the Economic and Social Council to accord voting rights in the Economic Commission for Europe and its subsidiary bodies to non-members of the United Nations which are in consultative status with the Commission. 146/ (2) The question of the right of representatives of non-governmental organizations in consultative status with the Economic and Social Council to obtain visas, under the provisions of the Headquarters Agreement, for the purpose of attending sessions of the General Assembly. 147/ (3) The question whether Liechtenstein could be considered a State within the meaning of Article 93. 148/ (4) The question of the right of the Commission on Human Rights to request the Secretary-General to address inquiries to Governments. 149/

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141/ For functions of the Economic and Social Council and the General Assembly with regard to the drafting of conventions, see in this Repertory under Article 62 (3).

142/ G A resolution 489 (V).

143/ E S C resolution 2 (II).

144/ E S C resolution 47 (IV).

145/ E S C resolution 155 (VII).

146/ E S C (XIII), 555th mtg., pp. 713 and 714.

147/ E S C resolution 340 (XI).

148/ S/C.1/SR.112.

149/ E/CN.4/SR.180 and E/CN.4/490.

88. At the third session of the General Assembly, a representative on the Fifth Committee asked a representative of the Department of Legal Affairs of the Secretariat what was meant by the words "geographical representation" in rule 145 of the rules of procedure of the General Assembly, whether the members of the technical Committees, elected by the General Assembly, also represented their Governments and whether, generally speaking, they could be bound by instructions from their Governments. Another representative stated that it was for the General Assembly to interpret its rules of procedure and that the matter did not fall within the competence of the Secretariat; he therefore proposed that the Fifth Committee decide whether it would hear the representative of the Department of Legal Affairs of the Secretariat. In the ensuing discussion, the views set forth below were among those expressed. (1) The legal opinion requested would only be a statement of the technical views of the Secretariat with regard to an interpretation of the rules of procedure of the General Assembly, and, while that interpretation in principle, would be the best available, it would not be binding on the Committee. (2) Any delegation had the right to seek an advisory opinion from the Secretariat, but the Committee had also the right to decide whether or not it wished to hear a statement of that opinion. (3) While the legal opinion of the Secretariat would provide the Committee with useful data for its subsequent discussions, it should not be concluded that the Fifth Committee would automatically have to request the advisory opinion of the Department of Legal Affairs on all legal questions submitted to it, even on questions of principle. The Committee then voted in favour of hearing the legal opinion of the Secretariat. 150/

89. In February 1950, the Secretary-General requested the preparation of a confidential memorandum on the legal aspects of the problem of the representation of States in the United Nations. After some representatives on the Security Council had asked to see the memorandum and references to it had appeared in the press, the Secretary-General thought it appropriate to circulate the full text of the memorandum to all the members of the Council. 151/ By letter 152/ dated 13 March 1950, addressed to the Secretary-General, one representative lodged a protest against the memorandum of the Secretary-General; he considered that the question dealt with in the memorandum could not be held to "threaten the maintenance of international peace and security" within the meaning of Article 99, the only Article that, in his view, assigned a sphere of political action to the Secretary-General; he concluded therefore that the intervention of the Secretary-General was inappropriate. No action on the question was taken by the Security Council. 153/

90. In its report 154/ to the General Assembly at its fourth session, the Special Committee on Methods and Procedures stressed the value of having a legal adviser from the Secretariat in attendance at meetings to give the chairman or the organ concerned "such advice as they may need for the conduct of their business and the interpretation of the rules of procedure."

91. At the sixth session of the General Assembly, the methods and procedures of the General Assembly for dealing with legal and drafting questions were discussed in the Sixth Committee. It was decided that, in view of the complexity of the problems raised,

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150/ G A (III/1), 5th Com., 122nd mtg., pp. 199-205.

151/ S C, 5th yr., Suppl. for Jan-May, p. 18, S/1466.

152/ Ibid., p. 26, S/1470.

153/ G A (V), Suppl. No. 2 (A/1361), pp. 56 and 57; see also para. 123 below.

154/ G A (IV), Suppl. No. 12 (A/937), para. 39; the relevant portion of the report of the Committee is incorporated as annex I to the rules of procedure of the General Assembly.

further study of the matter was necessary. By resolution 597 (VI), the Assembly established the Special Committee for the consideration of the methods and procedures of the General Assembly for dealing with legal and drafting questions.

92. When the Special Committee met prior to the opening of the seventh session of the General Assembly, there was discussion 155/ as to the best way in which the Secretariat could render legal and drafting assistance. The opinion was voiced that the best results in drafting General Assembly resolutions could be obtained by providing that the Rapporteurs of Main Committees should consult with the competent officials of the Secretariat as to style, form and use of technical terms. It was stated, on the other hand, that, while it was always possible for the officers of committees to consult the Secretariat on drafting problems, such consultations should not be made compulsory. The Committee eventually adopted the following recommendation:

"That, normally, the chairman of a Committee shall, at the appropriate time, call upon the vice-chairman and the rapporteur to join him for the purpose of proceeding, in consultation with the competent officials of the Secretariat, to examine the draft resolutions from the point of view of style, form and the use of technical terms, and, when appropriate, to suggest to the Committee such changes as they deem necessary."

93. This recommendation of the Special Committee was considered 156/ in the Sixth Committee of the General Assembly at its seventh session. Opinion was divided between the three points of view set forth below. (1) The recommendation was a useful one. (2) The Secretariat should be of greater assistance to delegations in the drafting of resolutions than had been the case. (3) It was not necessary to adopt the recommendation of the Special Committee which was self-evident and, to a large extent, reflected current practice.

94. A draft resolution 157/ on the report of the Special Committee was submitted to the Sixth Committee, by which the General Assembly would have adopted the recommendation quoted in paragraph 92 above. The Committee, however, adopted, by 23 votes to 22, with 7 abstentions, an amendment 158/ providing for the deletion of that recommendation from the draft resolution.

95. At the above-mentioned meeting of the Special Committee (see paragraph 92 above), a proposal was made under which periodic meetings between the Rapporteurs of Committees and the competent officials of the Secretariat should be held in order to establish, as far as practicable, common methods of drafting, and to ensure that in general the drafting of resolutions was satisfactory from the point of view of style, form and the use of technical terms. The Special Committee did not formally adopt this proposal, but included the following statement 159/ in its report:

"It was pointed out that there might be certain practical difficulties in arranging for periodic meetings of rapporteurs. The Special Committee decided to make no formal recommendation on the subject; nevertheless, the Committee believes that it is desirable that informal consultation should take place from time to time between the various rapporteurs and officials of the Secretariat for the purpose described in the United Kingdom proposal."

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155/ G A (VII), Annexes, a.i. 53, p. 2, A/2174, paras. 31-33 and 40 (e).

156/ Ibid., p. 10, A/2247, paras. 40, 41 and 46.

157/ Ibid., p. 6, A/C.6/L.234.

158/ Ibid., p. 7, A/C.6/L.237.

159/ Ibid., p. 2, A/2174, para. 36.

96. Under a draft resolution 160/ on methods and procedures of the General Assembly for dealing with legal and drafting questions, submitted by the Sixth Committee to the General Assembly, the paragraph in question would be set out, verbatim, in an annex to the rules of procedure of the General Assembly. The draft resolution was adopted by the General Assembly and became resolution 684 (VII), under the terms of which the paragraph was incorporated in annex II to its rules of procedure.

### C. Financial functions of the Secretary-General

97. The practice of the United Nations in financial matters is analysed in this Repertory under Articles 17 (1), 17 (2) and 17 (3). The present study will therefore be limited to a brief summary of some specific financial functions which have been entrusted to the Secretary-General, and which are not referred to elsewhere in this Repertory.

98. It is the responsibility of the Secretary-General to advise United Nations organs on the financial implications of any proposals submitted to them. 161/ He is specifically charged, 162/ under the rules of procedure of the Economic and Social Council, with circulating each year to the Council an analysis of the estimated cost for the following financial year of the economic and social activities of the United Nations.

99. The Financial Regulations of the United Nations provide that the Secretary-General, in addition to his responsibilities for the preparation and presentation of the United Nations budget, 163/ shall be consulted by the International Court of Justice in the preparation of its budgetary estimates, which are then submitted to the General Assembly by the Secretary-General, together with such observations as he may deem desirable. 164/

100. The General Assembly has authorized the Secretary-General, subject to the concurrence of the Advisory Committee on Administrative and Budgetary Questions, to enter into commitments to meet unforeseen and extraordinary expenses not provided for in the budget. The Secretary-General has been authorized to commit funds for expenses which he deems necessary in relation to the maintenance of peace and security, or to urgent economic rehabilitation, and to do so even without the prior concurrence of the Advisory Committee. 165/

101. The Secretary-General may incur obligations against appropriations voted by the General Assembly 166/ during the financial year to which the appropriations relate; he may, however, make payments from such appropriations for twelve months thereafter in respect of goods supplied and services rendered in the financial year to which the appropriation related, and liquidate any other outstanding legal obligations of the year. 167/

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160/ Ibid., para. 51, A/2247.

161/ See in this Repertory under Article 17 (1), paras. 25-28.

162/ Rule 34.

163/ See in this Repertory under Article 17 (1), paras. 14-16.

164/ G A resolution 456 (V), annex, article XV.

165/ G A resolutions 68 (I), 166 (II), 252 (III), 356 (IV), 471 (V), 472 (V), 584 (VI), 786 (VII), 787 (VII) and 891 (IX).

166/ See in this Repertory under Article 17 (I), paras. 19-21.

167/ G A resolution 456 (V), annex, article IV.

102. The Secretary-General is authorized to accept voluntary contributions in cash or in kind towards the United Nations budget, provided that the purposes for which the contribution is made are consistent with the policies, aims and activities of the Organization, and provided that the acceptance of voluntary contributions which directly or indirectly involve additional financial liability for the Organization shall require the consent of the appropriate authority. 168/

103. The Secretary-General is responsible for the custody of the funds of the Organization. He is authorized to make such arrangements as he deems appropriate for the safekeeping of the funds, and for the investment of those not needed to cover immediate requirements. 169/ In making arrangements for investments, the Secretary-General is assisted by an Investments Committee of three members appointed by him and confirmed by the General Assembly. 170/

104. Within the framework of the Financial Regulations of the United Nations, the Secretary-General establishes such financial rules and procedures and maintains such accounting records as he considers necessary to ensure an efficient financial administration and the exercise of economy. He designates the officers who may receive monies, incur obligations and make payments on behalf of the Organization, and maintains an internal financial control providing for current examination and review of financial transactions. The Secretary-General may make such *ex gratia* payments as he deems necessary in the interests of the Organization, but is required to submit a statement of such payments to the General Assembly with the annual accounts. 171/

105. The Secretary-General is authorized to establish trust funds, reserve accounts and special accounts, 172/ and he may accept grants to be administered by the United Nations.

#### D. Political functions of the Secretary-General 173/

##### 1. *Functions of the Secretary-General as mediator and informal adviser*

106. In its report, the United Nations Preparatory Commission stated 174/ that "The Secretary-General may have an important role to play as a mediator and as an informal adviser of many governments." Under resolution 11 (I), establishing the terms of appointment of the Secretary-General, the General Assembly also referred to the Secretary-General as "a confidant of many governments."

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168/ *Ibid.*, article VII.

169/ *Ibid.*, articles VIII and IX.

170/ G A resolution 155 (II).

171/ G A resolution 456 (V), annex, articles X and XI.

172/ See in this Repertory under Article 17 (1), paras. 51-57.

173/ See also in this Repertory under Article 99.

174/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. VIII, section 2, para. 16.

107. The Secretary-General has frequently discussed matters of interest to the Organization with individual delegations or Governments, either on his own initiative or at their request; as a rule, however, he has made his views known in informal and private discussions, and only in very few instances 175/ is a reference to such consultations to be found in official records. The Secretary-General stated in his annual report to the General Assembly at its fourth session that the "good offices of the Secretary-General are always available to facilitate such consultations" between the great Powers in those matters that come before the Organization as well as in matters outside the Organization. 176/

108. The provisional rules of procedure of the Security Council stipulate 177/ that the Secretary-General may be appointed by the Security Council as Rapporteur for a specified question. When the rule was discussed 178/ in the Committee of Experts of the Security Council, it was stressed that this rule was intended to apply to the political task of reconciling two divergent views rather than to the technical function of drafting a report, and that the appointment of the Secretary-General as Rapporteur would be subject to his consent in each case. So far, however, the Security Council has not taken action under this rule.

109. The Secretary-General was, in one instance, formally entrusted with the function of assisting Governments in the settlement of their differences. In connexion with the question of the treatment of people of Indian origin in the Union of South Africa, the General Assembly, at its sixth session, requested 179/ the Secretary-General

"... to lend his assistance to the Governments of India, Pakistan and the Union of South Africa, provided such assistance is deemed necessary and helpful by him, with a view to facilitating appropriate negotiations between them; and further, in his discretion and after consulting the Governments concerned, to appoint an individual who would render such additional assistance for the purpose of facilitating the conduct of the said negotiations".

110. The resolution was communicated to the three Governments concerned but the replies received indicated that, for a variety of reasons, the negotiations envisaged were not acceptable to them. 180/

111. The General Assembly has, on several occasions, entrusted the Secretary-General with procedural functions in the settlement of questions relating to the maintenance of international peace and security. Such functions have included that of appointing members of commissions established to deal with the questions at issue. Thus, the General Assembly, at its fifth session, requested 181/ the Secretary-General to

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175/ For example, in connexion with the consultations with regard to the proposal of the Secretary-General for the development of a twenty-year programme for achieving peace through the United Nations (G A (V), Plen., vol. I, 309th mtg., p. 446; 312th mtg., p. 495); and the appeal of the Secretary-General to the great Powers to seek to reach agreement on the Berlin question (G A (IV), Suppl. No. 1 (A/930), p. x).

176/ G A (IV), Suppl. No. 1 (A/930), p. xiv.

177/ Rule 23.

178/ S/Procedure/106.

179/ G A resolution 511 (VI).

180/ G A (VII), Suppl. No. 1 (A/2141), pp. 20 and 21.

181/ G A resolution 427 (V).

"establish an Ad Hoc Commission composed of three qualified and impartial persons chosen by the International Red Cross or, failing that, by the Secretary-General himself, with a view to settling the question of the prisoners of war."

In another instance, the Secretary-General was directed 182/ to take charge of the administrative arrangements connected with the composition and use of the Panel for Inquiry and Conciliation created by the General Assembly. In that connexion, he was authorized, whenever so requested jointly by the parties to a controversy, to appoint from the panel the number of commissioners required to serve as members of a commission of inquiry or of conciliation, and was requested to give the parties to the controversy and the United Nations organ concerned every assistance in connexion with the constituting of such a commission. Under its resolution 183/ entitled "Uniting for peace", the General Assembly requested the Secretary-General to appoint, with the approval of the Collective Measures Committee, "a panel of military experts who could be made available, on request, to Member States wishing to obtain technical advice regarding the organization, training and equipment for prompt service as United Nations units" of elements of their armed forces.

112. Upon the death of the United Nations Mediator in Palestine, the Secretary-General, with the approval of the President of the Security Council, empowered a senior official of the Secretariat to assume full authority over the Palestine Mission and to serve as Acting Mediator. 184/

113. The Secretary-General has also, on certain occasions, been requested to enter into negotiations or to take other steps with a view to putting an end to situations causing friction among Governments. For example, the Secretary-General was directed, 185/ in co-operation with the International Committee of the Red Cross and the League of Red Cross Societies, to take the necessary steps for the repatriation of members of the Greek armed forces and of Greek children detained in other countries; he was requested 186/ to seek, in the name of the United Nations, the release of all captured personnel of the United Nations Command still detained by Chinese forces, and to make, by the means most appropriate in his judgement, continuing and unremitting efforts to that end.

## *2. The question of the right of the Secretary-General to make proposals and statements to United Nations organs*

114. The Secretary-General is authorized 187/ to request that any item proposed by him be placed on the provisional agenda of the General Assembly, the Economic and Social Council, the Trusteeship Council and their subsidiary organs; he has, in that respect, the same rights as the members of those organs.

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182/ G A resolution 268 D (III).

183/ G A resolution 377 (V).

184/ G A (IV), Suppl. No. 1 (A/930), p. 2 and S C, 3rd yr., No. 110, 358th mtg., pp. 2 and 3.

185/ G A resolutions 288 (IV), 382 (V) and 702 (VII).

186/ G A resolution 906 (IX).

187/ For details, see rules 13, 14 and 18 of the rules of procedure of the General Assembly (United Nations Publication, Sales No.: 1954.I.17); rules 10, 13 and 14 of the rules of procedure of the Economic and Social Council (United Nations Publication, Sales No.: 1953.I.21); rule 13 of the rules of procedure of the Trusteeship Council (United Nations Publication, Sales No.: 1952.I.19).

115. The provisional rules of procedure of the Security Council provide 188/ that all communications from the Secretary-General concerning any matter for the consideration of the Security Council in accordance with the provisions of the Charter shall immediately be brought to the attention of all representatives on the Security Council, and that its President shall call a meeting of the Council if the Secretary-General brings to the attention of the Security Council any matter under Article 99.

116. The Secretary-General, or the member of the Secretariat designated by him as his representative, may make oral or written statements on any question under consideration by a United Nations organ. 189/ Under rule 55 of the rules of procedure of the Trusteeship Council, the Secretary-General may be accorded precedence over other speakers who have earlier indicated their desire to speak.

117. The provisional rules of procedure for the General Assembly, the Economic and Social Council and the Trusteeship Council prepared by the United Nations Preparatory Commission, provided that the Secretary-General might make oral or written statements to these organs only "upon invitation of the President". 190/ The report 191/ of the Executive Committee of the Preparatory Commission summarized the discussions which took place in connexion with the drafting of the relevant rule of procedure for the General Assembly as follows:

"There was considerable discussion of the conditions under which the Secretary-General might make to the General Assembly statements concerning any question that is being considered. It was suggested that in Rule 54 the words 'recognition of the President' might replace 'invitation of the President', so that the right of the Secretary-General to make statements to the General Assembly when he thought that the occasion demanded it, would be made clear. In opposition it was claimed that the Secretary-General had no such general right under the Charter, since the specific granting of that right, in relation to the Security Council, in Article 99 of the Charter, implied a limitation in relation to the General Assembly. The term 'invitation of the President' was, however, accepted as representing a statement of the practical realities of the relation between the Secretary-General and the President, since in any case the Secretary-General would consult the President in making either oral or written statements to the General Assembly. It was further contended that the expression 'any question' was too broad. It was explained, however, that the expression was clearly modified by the clause 'which is being considered by the General Assembly'. By virtue of this wording, the Secretary-General would be limited strictly in his statements to the General Assembly to those questions which, under the Charter, the General Assembly would be competent to discuss."

118. In adopting its provisional rules of procedure, the General Assembly deleted the proviso that the Secretary-General might make statements to the General Assembly

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188/ Rules 3 and 6; for the practice under these rules, see in this Repertory under Article 99.

189/ See, for example, rules 71 and 111 of the rules of procedure of the General Assembly; rule 22 of the provisional rules of procedure of the Security Council; rule 31 of the rules of procedure of the Economic and Social Council; rule 26 of the rules of procedure of the Trusteeship Council.

190/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, pp. 13, 31 and 51. The provisional rules of procedure for the Security Council drafted by the Preparatory Commission did not contain any provision authorizing the Secretary-General to make statements.

191/ Report by the Executive Committee to the Preparatory Commission of the United Nations, PC/EX/113/Rev.1, 12 Nov. 1945, part III, appendix, p. 38.

or to its Committees only "upon invitation of the President". The relevant rule, 192/ as adopted, reads as follows:

"The Secretary-General, or a member of the Secretariat designated by him as his representative, may, at any time, make either oral or written statements to the General Assembly concerning any question under consideration by it."

The Economic and Social Council and the Trusteeship Council also deleted from their rules of procedure the proviso that the Secretary-General might make statements only upon invitation of the President, and substituted for it a reference to the rule 193/ specifying the general powers of the President in conducting the business of the Council.

119. During the discussion 194/ of the provisional rules of procedure of the Security Council by the Committee of Experts of the Council, there was opposition to a proposal that the Secretary-General should have the authority to make oral or written statements to the Council only upon the invitation of the President; in this connexion the difference in the concept of the powers accorded to the Secretary-General of the United Nations, as opposed to those accorded to the Secretary-General of the League of Nations, was pointed out, and it was argued that the Secretary-General of the United Nations should have an absolute and unlimited right of intervention. The Committee of Experts of the Council unanimously decided to omit from the proposed draft rule the proviso that the Secretary-General might make statements to the Security Council "upon the invitation of the President", 195/ and the Council approved the rule 196/ which reads as follows:

"The Secretary-General, or his deputy acting on his behalf, may make either oral or written statements to the Security Council concerning any question under consideration by it."

120. In connexion with the drafting of the rule of procedure authorizing the Secretary-General to make statements to the Security Council, the question was raised 197/ in the Committee of Experts of the Council whether the Charter could be interpreted as giving the Secretary-General an absolute and unlimited right of intervention; specifically, it was questioned whether the Charter could be construed as authorizing the Secretary-General to make comments on political and substantive matters. It may be noted that, in practice, the Security Council has in no way limited the right of the Secretary-General to make statements or comments on political and substantive matters. 198/

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192/ Rule 72 of the rules of procedure of the General Assembly.

193/ See rules 30 and 47 of the rules of procedure of the Economic and Social Council; rules 26 and 53 of the rules of procedure of the Trusteeship Council.

194/ S/Procedure/100.

195/ S C, 1st yr., 1st Series, Suppl. No. 2, pp. 39 and 40, annex 1 f (S/71).

196/ Rule 22 of the provisional rules of procedure of the Security Council.

197/ S/Procedure/103.

198/ Thus, the Secretary-General has made statements in connexion with the question of the admission of new Members (S C, 1st yr., 2nd Series, No. 4, 54th mtg.); the question of the Statute of the Free Territory of Trieste (S C, 2nd yr., No. 3, 91st mtg., pp. 44 and 45); and the complaint of aggression upon the Republic of Korea (S C, 5th yr., No. 15, 473rd mtg., p. 3).

121. The rules of procedure of the General Assembly provide 199/ that all items proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents or by a draft resolution; the Secretary-General is thus expressly authorized to submit draft resolutions with respect to any items which he has proposed for inclusion in the agenda of the General Assembly. In practice, however, the Secretary-General has also formulated and presented proposals with regard to items other than those which had been placed on the agenda on his initiative. For example, the Secretary-General has submitted proposals or draft resolutions with regard to budget estimates, which constitute a recurring item included in the agenda under rule 13 (f) of the rules of procedure of the General Assembly. He has, similarly, submitted proposals or draft resolutions with regard to the United Nations Postal Administration, 200/ and rules for calling of international conferences, 201/ both items included in the agenda under rule 13 (c) as items the inclusion of which had been ordered by the General Assembly at a previous session, and so forth.

122. At the sixth session of the General Assembly, the right of the Secretary-General to submit amendments to a proposal under consideration by the Fifth Committee was questioned 202/ on the ground that the rules of procedure of the Assembly made no reference to such a right. It was held, on the other hand, that the Secretary-General had the right to submit amendments to proposals before the Committee. They pointed out that, at previous sessions of the General Assembly, the Committee had on several occasions taken decisions on proposals submitted by the Secretary-General. It was further pointed out that anything that was not expressly provided for under the rules of procedure was not necessarily prohibited. The Chairman of the Committee ruled that the Secretary-General was entitled, under the Charter, to submit proposals. The above-noted objections were thereupon withdrawn.

123. With regard to the right of the Secretary-General to submit proposals to the Security Council, the following view 203/ was expressed in the Committee of Experts of the Council:

"...under Article 98 of the Charter, the Secretary-General had general powers to participate in the discussions of the Security Council, but without having the right to submit proposals or draft resolutions. However, when the Secretary-General considered that there was a threat to international peace and security, Article 99 of the Charter conferred special powers upon him which put him in the same position as a sovereign state. Furthermore,... under Article 99 of the Charter, the Secretary-General had the power to submit proposals and draft resolutions."

In practice, however, the Secretary-General has made proposals to the Security Council without reference to Article 99. For example, the Secretary-General submitted 204/ a suggestion for action to be taken by the Security Council with regard to the admission of new Members, and offered 205/ an amendment to a draft resolution on the Palestine question submitted by a member of the Council. No objections of a procedural character

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199/ Rule 20.

200/ G A (V), 5th Com., 258th mtg.

201/ G A (IV), 6th Com., 199th mtg.

202/ G A (VI), 5th Com., 303rd mtg., p. 107.

203/ S/Procedure/103, p. 2.

204/ S C, 2nd yr., No. 78, 186th mtg., p. 2033.

205/ S C, 3rd yr., No. 97, 338th mtg., pp. 31, 32 and 63-66.

were raised by members of the Council to the action of the Secretary-General in presenting these proposals, nor was his authority to make such proposals questioned. 206/

124. With regard to proposals of a political nature made by the Secretary-General on his own initiative, the "Memorandum of points for consideration in the development of a twenty-year programme for achieving peace through the United Nations" 207/ which the Secretary-General submitted to the General Assembly at its fifth session may serve as an example. The General Assembly subsequently adopted resolution 494 (V), by which it commended the Secretary-General for his initiative in preparing the Memorandum and in presenting it to the General Assembly, and requested the appropriate organs of the United Nations to give consideration to those portions of the Memorandum of the Secretary-General with which they were particularly concerned.

125. Another example of an initiative taken by the Secretary-General in bringing his views to the attention of the General Assembly is provided by his practice of presenting his observations on important political problems in the introduction to his annual report on the work of the Organization. While the introduction to the first annual report was described 208/ by the Secretary-General as "a brief summary of work accomplished and of problems and difficulties encountered", the introductions to later reports were characterized 209/ by him as a "review of the world situation". At the second, fifth and sixth sessions, the Secretary-General made statements to the General Assembly closing the general debate; after the first such occasion, 210/ the Secretary-General referred 211/ to that action as "my privilege and usual practice".

## E. The representational functions of the Secretary-General

### 1. *Functions of the Secretary-General with regard to the negotiation and conclusion of agreements*

126. As a rule, the Secretary-General serves as the representative of the United Nations in negotiating and concluding agreements with Governments and with inter-governmental organizations. 212/ In most instances in which he has concluded such agreements, the Secretary-General has represented the United Nations at the specific request of either the General Assembly or one of the Councils; in some cases the organ authorizing the Secretary-General to conclude the agreement has established a

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206/ On one occasion, however, a member of the Council objected to a memorandum circulated by the Secretary-General on the grounds that the subject-matter of this memorandum did not concern a question falling within the purview of Article 99; see para. 89 above.

207/ G A (VI), Annexes, a.i. 60, p. 1, A/1304.

208/ A/65, p. iii.

209/ G A (VI), Suppl. No. 1 (A/1844), p. xi, and G A (VII), Suppl. No. 1 (A/2141), p. xi.

210/ G A (II), Plen., vol. I, 90th mtg., pp. 267-272.

211/ G A (V), Plen., vol. I, 289th mtg., pp. 175 and 176; G A (VI), Plen., 348th mtg., pp. 200 and 201.

212/ The agreements bringing the specialized agencies into relationship with the United Nations were, however, concluded by the Economic and Social Council, in accordance with Article 63.

negotiating committee composed of governmental representatives to advise and assist the Secretary-General, 213/ or has provided that any agreements resulting from such negotiations were subject to approval by the General Assembly. 214/ On several occasions, however, the Secretary-General has undertaken the negotiation and conclusion of such agreements on his own initiative and without specific authorization. 215/

127. The international agreements negotiated and concluded by the Secretary-General have covered a wide range of subjects. They have included, for example, agreements relating to the establishment of the United Nations Headquarters, branch offices or missions; agreements with certain countries concerning the immunities, privileges and facilities to be accorded to the Organization and to its officials; agreements with international organizations for the transfer of their assets to the United Nations and for the carrying out of residual activities by the United Nations; agreements relating to the operation of postal, telecommunication, and other technical services by the Organization; supplementary agreements and arrangements with specialized agencies on administrative matters or on co-operation in specific fields. 216/ A number of international agreements have been concluded by, or on behalf of, the Secretary-General in connexion with certain operational programmes of the United Nations, 217/ the administration of which was entrusted to the Secretary-General by resolution with the proviso that the programmes be carried out in agreement with the Governments concerned. 218/

128. The Secretary-General also acts as the representative of the United Nations in concluding a variety of agreements, contracts and arrangements in the field of private law, such as contracts for the provision of services and the furnishing of supplies required for the effective functioning of the Organization; he concludes "on behalf of the Organization as its representative" 219/ contracts of employment with staff members. Subject to any regulations or directives that the General Assembly may have made with regard to the particular type of contract, 220/ and subject to budgetary limits on

213/ For example, G A resolutions 79 (I), 183 (II), 454 (V), 497 (V); E S C resolutions 136 (VI) and 246 (IX).

214/ For example, G A resolutions 22 (I) and 24 (I).

215/ For example, the agreement between the United Nations and Japan on privileges and immunities of the United Nations, the exchange of letters with the Foreign Minister of Indonesia concerning the status of representatives and staff of the United Nations Commission for Indonesia, the exchange of cablegrams concerning facilities, privileges and immunities to be accorded by the Government of Chile to the Economic Commission for Latin America in connexion with its first session.

216/ See, for example, G A resolutions 22 (I), 24 (I), 79 (I), 183 (II), 198 (II), 232 (II), 241 (III), 360 (IV), 415 (V), 454 (V); E S C resolutions 136 (VI), 246 (IX), 333 (XI), 412 (XIII); and ST/LEG/2, pp. 47-104, 123-138 and 141-155. For agreements relating to privileges and immunities, see in this Repertory under Articles 104 and 105.

217/ For example, in connexion with technical assistance, advisory social welfare services and the United Nations Appeal for Children.

218/ For example, G A resolutions 58 (I), 200(III) and 418 (V); E S C resolutions 45 (IV) and 80 (V).

219/ Effect of awards of compensation made by the U.N. Administrative Tribunal, I C J, Reports 1954, p. 53.

220/ For instance, the provisions of the United Nations Staff Regulations with regard to employment contracts, or the relevant provision of the United Nations Financial Regulations as regards contracts for supplies which require competitive bidding.

expenditures to which he may commit the Organization, the Secretary-General has the discretion to conclude, on his own initiative, such contracts as he deems necessary, and he has not required any specific authorization for entering into such agreements. In a memorandum, 221/ submitted to the General Assembly at the first part of its third session, on the subject of reparation for injuries incurred in the service of the United Nations, the Secretary-General stated that

"Under Article 97 of the Charter, the Secretary-General is the Chief Administrative Officer of the Organization. In this capacity he enters into contracts and settles claims of a private law character on behalf of the Organization."

In one instance, however, the General Assembly has specifically authorized the Secretary-General to negotiate and conclude certain agreements in the field of private law. Under resolution 182 (II), the General Assembly authorized the Secretary-General to enter into contracts for the construction, furnishings and other works connected with the construction of installations and to make appropriate arrangements with regard to easements, public services and similar matters connected with the establishment of a permanent United Nations Headquarters.

## *2. Representational functions of the Secretary-General in legal proceedings*

### a. COURT PROCEEDINGS

129. The Secretary-General represents the United Nations in legal proceedings, both at the international and national level. He has, on his own authority, instituted proceedings before national courts; 222/ he represents the Organization in cases before the Administrative Tribunal; and he has presented written and oral statements to the International Court of Justice in connexion with requests for advisory opinions.

130. In the proceedings before the International Court of Justice in the Reparation for injuries suffered in the service of the United Nations case, the Secretary-General took a position on the legal issues involved. In a statement 223/ delivered on his behalf, the role of the Secretary-General in these proceedings was referred to as follows:

"In the present proceedings, however, it is necessary for me to appear in a dual rôle. As in last year's proceedings, it is deemed appropriate by the Secretary-General, as Chief Administrative Officer of the United Nations, to present to the Court an objective summary of the proceedings before the General Assembly and its Sixth Committee which will furnish the relevant background for the request of an advisory opinion in the instant case ...

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221/ G A (III/1), Plen., Annexes, p. 224, A/674.

222/ In such matters as over-payment made by the United Nations, traffic accidents involving United Nations property et cetera. Contracts concluded by the United Nations contain as a rule an arbitration clause; see in this Repertory under Articles 104 and 105.

223/ Reparation for injuries suffered in the service of the United Nations, I C J Oral Statement, pp. 3 and 4.

"But the Secretary-General is also a vitally interested participant - I almost say party - in the present proceedings. For that reason he has deemed it advisable to take a definite position on the legal issues involved in the questions, and with your permission, Mr. President, we will give you our views".

In the oral statement 224/ which he made to the Court in connexion with the Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide case, the representative of the Secretary-General also indicated "the main legal problems which a depositary faces in the performance of his functions, in particular those regarding the Genocide Convention"; the statement was, however, based on the practice of the Secretary-General in the exercise of his depositary functions, and did not expressly refer to any definite position taken by the Secretary-General on the legal issues involved.

b. ARBITRATION PROCEEDINGS

131. The agreements entered into by the United Nations provide, 225/ as a rule, that any dispute between the parties concerning the interpretation or application of the agreement in question, which is not settled by negotiation or other agreed mode of settlement, shall be referred for a final decision to a tribunal of three arbitrators, one of whom is named by the Secretary-General. The Secretary-General, on behalf of the Organization, conducts the negotiations with a view to settling any disputes that may arise in connexion with such agreements, and, if arbitration proceedings become necessary, represents the Organization in such proceedings.

132. At its fifteenth session, the Economic and Social Council considered 226/ a complaint concerning the application of the Headquarters Agreement and the majority of the members of the Council expressed the opinion that it was for the Secretary-General to take the necessary steps for dealing with the complaint. During the debate, the question was raised whether the Secretary-General would proceed automatically to apply the arbitration procedure should negotiations for an amicable settlement of the question prove fruitless, or whether he would first report to the Council or to the General Assembly. The representative of the Secretary-General replied that, under the terms of the Agreement, the Secretary-General could proceed to the arbitration stage independently; nevertheless, as the question had been brought before the Council, and as there appeared to be varying interpretations of the procedure among members of the Council, that body should instruct the Secretary-General and he should report to it. The opinion was thereupon expressed in the Council that it would be preferable, in the event of failure of the negotiations, that the Secretary-General should immediately proceed to arbitration without further reference to the Council; the Council could be informed of the outcome of the settlement procedures in due course. There was also support for the view that if the negotiations failed, there would be no need for the Secretary-General to refer the matter back to the Council. The Council took no action on two draft resolutions by which the Secretary-General would have been requested to press on with the negotiations.

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224/ Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, I C J, Oral Statement (Extract), p. 20.

225/ See, for example, in the Headquarters Agreement between the United Nations and the United States of America; in the agreements with Switzerland, Korea and Japan concerning United Nations privileges and immunities; and in the standard draft of technical assistance agreements et cetera; for texts of the relevant provisions, see ST/LEG/2.

226/ E S C (XV), 686th and 687th mtgs.

## C. PROSECUTION OF CLAIMS

133. The Secretary-General represents the Organization in the presentation and settlement of all claims.

134. The question of claims for reparation for injuries incurred in the service of the United Nations 227/ was considered by the General Assembly at the first part of its third session. By resolution 258 (III), the Assembly expressed the view that it was "highly desirable that the Secretary-General should be able to act, without question, as efficaciously as possible with a view to obtaining any reparation due." In a report 228/ submitted to the General Assembly at its fourth session in connexion with the same question, the Secretary-General stated that

"In his judgment, the Secretary-General, as chief administrative officer of the Organization, is the appropriate organ for the presentation and settlement of the claims here involved. The Secretary-General has acted on behalf of the Organization in the prosecution of all other claims, and there is no apparent reason for differentiation here."

135. In the above-mentioned report, the Secretary-General, having regard to the advisory opinion of the International Court of Justice in the Reparation for injuries incurred in the service of the United Nations case, then outlined the proposed procedure for dealing with claims for reparation of injuries suffered in the service of the United Nations. Under this proposed procedure, the Secretary-General would (a) determine whether the case appeared likely to involve the responsibilities of a State; (b) consult with the Government of the State of which the victim was a national, in order to determine whether that Government had any objection to the presentation of claims by the United Nations or desired to join in submission; and (c) negotiate with the State responsible for the injury, for the purpose of determining the facts of the case and the amount of reparations, if any. The Secretary-General would be given discretion in negotiating a settlement of the claims both with respect to the elements of damage included in any claim, and with respect to the amount of reparation to be requested or eventually accepted; but he would not be authorized to advance any claim for exemplary damages. If the claim could not be settled by negotiation, the Secretary-General might submit any differences of opinion to arbitration by a tribunal of three members, one of whom was to be named by him.

136. At the same session, the General Assembly, by resolution 365 (IV), authorized the Secretary-General, in accordance with the above-mentioned proposed procedure, to bring an international claim against the Government of any State alleged to be responsible, with a view to obtaining the reparation due in respect of the damage caused to the United Nations and in respect of the damage caused to the victim or to persons entitled through him; and if necessary, to submit to arbitration such claims as could not be settled by negotiation. The Assembly further authorized the Secretary-General to negotiate in each particular case the agreements necessary to reconcile action by the United Nations with such rights as might be possessed by the State of which the victim was a national.

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227/ For a detailed summary of the practice relating to other aspects of this case, see in this Repertory under Articles 104 and 105.

228/ G A (IV), 6th Com., Annex, p. 18, A/955, para. 20.

### 3. *Functions of the Secretary-General with regard to United Nations Headquarters*

#### a. IMPLEMENTATION OF THE HEADQUARTERS AGREEMENT

137. Under General Assembly resolution 169 (II), the Secretary-General was authorized to bring into force the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 229/ hereafter referred to as the Headquarters Agreement, and to perform on behalf of the United Nations such acts and functions as might be required under that Agreement. Accordingly, the Secretary-General exercises on behalf of the United Nations the control over and authority in the United Nations Headquarters district which, under the terms of the Agreement, is inviolable. 230/

138. The Headquarters Agreement provides for certain other specific functions and responsibilities of the Secretary-General. Under the terms of the Agreement, the Secretary-General carries out the functions set forth below.

a. He consults with the appropriate United States authorities as to the methods of facilitating entrance into the United States by persons coming from abroad who wish to visit the Headquarters district.

b. He is to be consulted before any proceedings under the immigration laws in force in the United States are instituted against any official of the United Nations, expert, representative of an information agency or non-governmental organization or any other person invited to the Headquarters district by the United Nations, and he has the right to appear in any such proceedings on behalf of the person against whom they are instituted.

c. He consults with the appropriate United States authorities with a view to making arrangements for registering the arrival and departure of persons who have been granted visas valid only for transit to and sojourn in the Headquarters district or its immediate vicinity.

d. He draws up, in agreement with the Government of the United States and the Government of the Member concerned, a list of the resident members of the staff of permanent representatives to the United Nations, who shall be entitled to privileges specified in the Headquarters Agreement.

e. He makes requests, when appropriate, to the United States authorities for providing police for the preservation of law and order in the Headquarters district 231/ and for removal of persons therefrom.

f. He makes requests, when appropriate, for ensuring the supply of the Headquarters district with public services and utilities.

g. He settles by agreement with the appropriate United States authorities the channels through which they will communicate on questions affecting the Headquarters district.

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229/ For the text of the Agreement, see G A resolution 169 (II), annex.

230/ See in this Repertory under Articles 104 and 105.

231/ For conditions under which police may enter the Headquarters district, see in this Repertory under Articles 104 and 105.

139. The Headquarters Agreement provides that the Secretary-General may enter into such supplemental agreements as may be necessary to fulfil the purposes of the Agreement. <sup>232/</sup> The Sub-Committee on Privileges and Immunities established by the General Assembly stated in its report <sup>233/</sup> on the Headquarters Agreement submitted to the General Assembly at its second session that the Secretary-General should have the authority to conclude such supplemental agreements and inform the General Assembly of their contents, but if in the judgment of the Secretary-General a proposed supplemental agreement involved any question of importance for which he had not already received authority, he should obtain the approval of the General Assembly before the supplemental agreement could become operative.

b. HEADQUARTERS REGULATIONS

140. Pursuant to the Headquarters Agreement, the United Nations has the power <sup>234/</sup> to make regulations operative within the Headquarters district, and such regulations are to supersede any federal, state or local law of the United States inconsistent therewith. In a report <sup>235/</sup> to the General Assembly at its fifth session, the Secretary-General noted that, under resolution 169 (II), he was authorized to perform on behalf of the United Nations the functions required by the Headquarters Agreement, but suggested that it was desirable that there should be a more specific authorization by the General Assembly for the issuance of regulations which would supersede other applicable laws of the host country. In its report <sup>236/</sup> to the General Assembly, the Sixth Committee, having considered the matter, noted that

"4.... because of the essentially administrative nature of the problem, the Secretary-General was in a position to judge what regulations would be necessary for the carrying out of the organizational functions at Headquarters.

"5. At the same time it was felt that, in view of the relationship between the regulations and domestic legislation, it was preferable to have a deliberative body with the prestige of the General Assembly take cognizance of all such regulations. It was only necessary that the general principle of approval by the General Assembly should not prevent the Secretary-General from issuing regulations which, in his opinion, were needed for immediate entry into effect."

By resolution 481 (V), the General Assembly requested the Secretary-General to present to the Assembly for approval any such draft regulation which in his opinion might be necessary, and decided that, if the Secretary-General considered it necessary to give effect to any such regulation before the Assembly could approve it, he should have authority to make such a regulation and give effect to it, and report any action so taken to the General Assembly as soon as possible. The Secretary-General has to date drawn up, and the General Assembly has approved, three regulations <sup>237/</sup> applicable to the Headquarters district.

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<sup>232/</sup> Article VIII, section 20.

<sup>233/</sup> G A (II), Plen., vol. II, p. 1519, annex 9 b, (A/427).

<sup>234/</sup> Article III, section 8.

<sup>235/</sup> G A (V), Annexes, a.i. 55, p. 1, A/1409.

<sup>236/</sup> Ibid., p. 3, A/1641.

<sup>237/</sup> See G A resolution 604 (VI); the provisions of these regulations, as well as other aspects of United Nations practice relating to the Headquarters Agreement, are dealt with in this Repertory under Articles 104 and 105.

#### 4. *Other representational functions of the Secretary-General*

##### a. FUNCTIONS OF THE SECRETARY-GENERAL WITH REGARD TO PRIVILEGES AND IMMUNITIES 238/

141. Pursuant to the General Convention on the Privileges and Immunities of the United Nations, 239/ the Secretary-General is to specify, subject to approval by the General Assembly, the categories of officials to which the provisions of the Convention shall apply. The Secretary-General is vested with the power to waive the immunity of any official to whom the provisions of the Convention apply; he has the obligation to waive immunity in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. The Secretary-General is also to implement article VII of the Convention, providing for the issuance by the United Nations of a laissez-passer to its officials, and for the issuance of a certificate to experts and other persons not entitled to hold a laissez-passer but who are travelling on the business of the United Nations. 240/

##### b. REPRESENTATION BY THE SECRETARY-GENERAL AT CONFERENCES AND MEETINGS OF OTHER AGENCIES

142. The Secretary-General, or a member of the Secretariat authorized by him, represents the United Nations at international conferences and at meetings of specialized agencies, other inter-governmental organizations and non-governmental organizations. Except in rare instances when another organ has specifically requested 241/ the Secretary-General to arrange for such representation, the Secretary-General has used his discretion in determining at which conferences and meetings the United Nations should be represented, and in making all other relevant arrangements.

143. The functions of the Secretary-General in connexion with the representation of the United Nations at conferences and meetings include the responsibility for the appropriate presentation of any agenda items that other organs of the United Nations may have referred to the organization or conference concerned, for bringing to the attention of the conference or meeting such points of view of United Nations organs as he considers appropriate, and for giving explanations, when appropriate, regarding action taken by the United Nations concerning the questions dealt with by the conference or meeting. 242/

##### c. AUTHORIZATION BY THE SECRETARY-GENERAL TO USE THE UNITED NATIONS EMBLEM, FLAG AND INSIGNIA

144. Under the terms of General Assembly resolution 92 (I), the Secretary-General is charged with authorizing the use of the United Nations emblem, the official seal of the Organization, and the name of the United Nations or abbreviations thereof. He has drawn up regulations 243/ concerning the form and use of the United Nations flag,

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238/ The United Nations practice with regard to privileges and immunities enjoyed by the Organization is dealt with in the study on Articles 104 and 105.

239/ See G A resolution 22 A (I), article V, sections 17 and 20.

240/ For the agreements extending the use of the laissez-passer to officials of certain specialized agencies, see in this Repertory under Article 63.

241/ See, for example, E S C resolution 31 (IV), requesting the Secretary-General to arrange for representation of the United Nations at the International Timber Conference.

242/ ST/SGB/78/Rev.2.

243/ G A resolution 167 (II).

as well as regulations 244/ for the award of distinguishing insignia to personnel which had participated in Korea in the defence of the principles of the Charter.

### 5. *Functions of the Secretary-General in the field of public information*

145. At its first session, the General Assembly approved, and transmitted to the Secretary-General for his guidance, a report 245/ prepared by the Technical Advisory Committee on information of the Preparatory Commission concerning the basis principles which should govern United Nations public information policies and activities. The General Assembly again discussed these principles at some length at its fifth session. The view was expressed 246/ in the Fifth Committee that the information activities which the Secretary-General carried out were too ambitious, and that the Department of Public Information of the Secretariat should not carry out "propaganda" activities which would duplicate the services of other information agencies. On the other hand, it was argued that the public information services of the United Nations provided a valuable and necessary service in supplementing national and private news agencies with an impartial source of information on United Nations activities. A sub-committee was appointed to review the principles underlying the work of the Department of Public Information.

146. In its report 247/ submitted to the General Assembly at its sixth session, the Sub-Committee stated that the injunction against engaging in "propaganda" contained in the report of the Technical Advisory Committee on Information (see paragraph 145 above) should not be interpreted as in any way limiting the mandate of the Department of Public Information "actively to promote public understanding and knowledge of the aims and activities of the United Nations", that it was not possible to develop a precise or detailed formulation of directives to the Department of Public Information for the planning of its work or the establishment of a system of priorities, and that it should be left to the Department itself to appraise the need and effectiveness of the main categories of services which it provides.

147. The Sub-Committee further set forth the functions of the Secretary-General in the field of public information. Under the definition of the Sub-Committee, the Secretary-General serves as the official spokesman of the Organization; he is responsible for formulating and implementing United Nations policies and activities in the field of public information, subject to the general authority of the General Assembly. In the implementation of his public information functions, it is the responsibility of the Secretary-General primarily to assist, and rely upon, the existing official and private agencies of information, educational institutions, and non-governmental organizations, and to undertake on his own initiative such positive activities in the field of public information as are necessary to supplement the services of existing agencies in promoting an informed understanding of the work and purposes of the Organization among the peoples of the world.

148. The guiding principles recommended by the Sub-Committee were approved by the General Assembly under resolution 595 (VI). The functions vested in the Secretary-General and, under him, in the Department of Public Information of the Secretariat in this field accordingly include the following:

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244/ G A resolution 483 (V).  
245/ G A resolution 13 (I), annex I.  
246/ G A (V), Annexes, a.i. 39, p. 61, A/1734.  
247/ G A (VI), Annexes, a.i. 41, p. 52, A/C.5/L.172.

- a. Establishment of a system of information centres on a regional and linguistic basis;
- b. Supply of the press and other information media with full information about the activities of the United Nations;
- c. Maintenance under United Nations control of broadcasting facilities for the origination of United Nations programmes;
- d. Preparation and publication of pamphlets and other literature on the aims and activities of the United Nations;
- e. Promotion of, and participation in, the production and distribution of documentary films and other graphic exhibits on the work of the United Nations;
- f. Maintenance of a reference and inquiry service for use by information and educational agencies;
- g. Continuous review of the extent to which an informed understanding of the aims and activities of the Organization is being created by existing information media and by the services of the Secretariat. 248/

149. Specific responsibilities in the field of public information entrusted to the Secretary-General under the rules of procedure or resolutions adopted by various United Nations organs, include the following:

- a. The issuance of communiqués at the close of private meetings; 249/
- b. Assistance in the rapid dissemination of all resolutions of principal organs of the United Nations dealing with questions of substance, particular attention being given to resolutions communicated to Governments at the special request of the organ adopting those resolutions; 250/
- c. Initiation of a direct flow of information material on the United Nations and on the International Trusteeship System to the general public in the Trust Territories, by using information channels suggested by the Administering Authorities as well as such other channels as the Secretary-General himself may consider appropriate; 251/

248/ For a detailed account of the functions and activities of the Secretary-General in the field of public information, see the annual reports of the Secretary-General on the work of the Organization. The first annual report of the Secretary-General was published as document A/65. The subsequent annual reports were published as Supplement No. 1 to the Official Records of the respective sessions of the General Assembly.

249/ Rule 63 of the rules of procedure of the General Assembly; rule 55 of the provisional rules of procedure of the Security Council; rule 42 of the rules of procedure of the Economic and Social Council; rule 45 of the rules of procedure of the Trusteeship Council.

250/ G A resolution 636 (VII).

251/ G A resolution 754 (VIII).

- d. The promotion of the teaching, in the educational institutions of Member States, of the purposes and structure of activities of the United Nations and its specialized agencies, in collaboration with the United Nations Educational, Scientific and Cultural Organization; 252/
- e. The publication and distribution of texts of the Universal Declaration of Human Rights in all languages possible; 253/
- f. Dissemination to the organizations and persons concerned of information on policy recommendations of the United Nations in the field of land reform. 254/

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252/ E S C resolutions 170 (VII) and 203 (VIII).

253/ G A resolution 217 (III).

254/ G A resolution 625 (VII).