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REPORT OF THE SECRETARY-GENERAL ON PERSONNEL POLICY

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ANNEXES

INTRODUCTION

A. Inclusion of the item in the agenda

1. The General Assembly, on 1 April 1953, adopted resolution 708 (VII), which reads as follows:

"The General Assembly,

"Recalling the following provisions of Articles 100 and 101 of the Charter:

"'Article 100

"'1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

"'2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

"'Article 101

"'1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

"'...

"'3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.',

and

"Having reviewed and considered the report of the Secretary-General on personnel policy,

"1. Expresses its confidence that the Secretary-General will conduct personnel policy with these considerations in mind;

"2. Requests the Secretary-General to submit to the General Assembly at its eighth session a report on the progress made in the conduct and development of personnel policy, together with the comments of the Advisory Committee on Administrative and Budgetary Questions thereon;

"3. Invites the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions to submit, after appropriate consultations with the administrative heads of the specialized agencies, their recommendations as to any further action that may be required of the General Assembly;

"4. Calls upon all Members of the United Nations to assist the Secretary-General in the discharge of his responsibilities as chief administrative officer of the United Nations."

The present report is submitted by the Secretary-General in accordance with the foregoing resolution.

2. An item entitled "Personnel policy: reports of the Secretary-General and of the Advisory Committee on Administrative and Budgetary Questions" was placed on the provisional agenda of the eighth session (A/2416) by the Secretary-General. The General Committee recommended in its report to the General Assembly (A/2477) that the item be placed on the agenda and should be referred to the Fifth Committee; these recommendations were adopted by the Assembly at its 435th plenary meeting on 17 September 1953.

B. Consultation with heads of specialized agencies

3. In accordance with the above resolution, the Secretary-General, at meetings of the Advisory Committee on Co-ordination on 7 October 1953, consulted with the administrative heads of the specialized agencies or their representatives[1/] on the subject matter of the present report though not on its text. The Secretary-General received a number of detailed comments on the proposals.

4. The Secretary-General was pleased to note that the representatives of the specialized agencies were in general agreement with him on the basic objectives to be sought and fully understood the reasons for his conclusions that a change in the Staff Regulations and an increase in the powers of the Secretary-General,

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1/ The administrative heads of the Universal Postal Union and the International Telecommunications Union were not present or represented at the meetings.

subject to appropriate safeguards, were necessary to meet the administrative needs of the United Nations. It was also agreed that it was desirable that there should be as much uniformity in personnel policy as may be found praticable, although the personnel policies and procedures of each organization must be framed in the light of its own special circumstances, including its constitution and the size, composition and duties of its staff.

5. The Secretary-General and the administrative heads of the specialized agencies found these discussions valuable and intend to continue them in the future as occasion may arise.

C. Contents of the report

6. The present report is submitted in accordance with the requests contained in both paragraphs 2 and 3 of the operative part of resolution 708 (VII) set out above. Part I of the report contains the recommendations of the Secretary-General as to "further action that may be required of the General Assembly" with respect to amendment to the Staff Regulations and of the Statute of the Administrative Tribunal, and the reasons, arising out of "the conduct and development of personnel policy," which have led him to make those recommendations.

7. Part II of the report deals with certain other developments of personnel policy which do not require amendments to the Staff Regulations, but which are submitted to the General Assembly for its approval or for its information. These developments include: progress in reviewing temporary staff; a new policy concerning the appointment of staff members; the question of terms of appointment of staff appointed for special service of a non-continuous or purely local character; and problems arising out of the United States Immigration and Nationality Act of 24 December 1952, which requires that staff members who are not United States citizens but who wish to retain immigrant status in the United States should execute a waiver of certain privileges and immunities. An opinion of the Attorney General of the United States regarding this last question is reproduced in annex III.

8. The factual developments concerning personnel policy since the date of the last report of the Secretary-General on the subject[2/] are set out in the annexes to the present report, but may be briefly summarized here.

2/ See Official Records of the General Assembly, Seventh Session, Annexes, agenda item 75, pages 3 to 41, document A/2364.

9. The United States Executive Order providing for supplying of information to the Secretary-General concerning United States citizens employed or being considered for employment in the Secretariat was amended on 2 June 1953 (annex I, section A; the text of the Executive Order as amended is set out in the appendix to annex I). As the result of proceedings under the Executive Order, certain information has been received (annex I, section C), none of which, so far, refers to "reasonable doubt" as to the loyalty of a staff member, being a United States national, to his government. The Executive Order explicitly defines information transmitted as intended for the use of the Secretary-General in the exercise of "his rights and duties with respect to the personnel of the United Nations as set out in the Charter and in regulations and decisions of the competent organs of the United Nations."

10. A United States Federal Grand Jury and two Sub-Committees of the United States Senate have made further investigations concerning present and former staff members of the United Nations (annex I, section B). During the investigations since the date of the last report on personnel policy only one person then a staff member invoked the privilege against self-incrimination. This staff member was later terminated and brought a case before the Administrative Tribunal; the Tribunal rendered judgments in her favour (Judgments Nos, 38 and 41; AT/DEC/38 and 41).

11. Certain governments of Member States, other than the United States, have also transmitted information to the Secretary-General about staff members who are their nationals. This information, like that received from the United States, may provide reasons for further inquiry by the Organization itself.

12. The Administrative Tribunal, on 21 August 1953, rendered judgments in twenty-one cases concerning staff members of United States nationality who had appealed against their termination or dismissal. In eleven of these cases the Tribunal decided in favour of the applicants, awarding compensation in seven cases and ordering reinstatement in four others. The Secretary-General in the exercise of his powers under article 9 of the Statute of the Tribunal, declined to reinstate the four applicants and, consequently, on 13 October 1953, the Tribunal rendered judgments awarding compensation in these cases. A summary of the awards in all twenty-five judgments, together with statements of the main principles of the judgments is contained in annex II.

PART I. RECOMMENDATIONS OF THE SECRETARY-GENERAL MADE IN PURSUANCE OF PARAGRAPH 3 OF GENERAL ASSEMBLY RESOLUTION 708 (VII)

Chapter I. Problems of Integrity, Conduct and Suitability of Staff Members

A. General approach to problems presented

(i) Background

13. General Assembly resolution 708 (VII) of 1 April 1953 requested the Secretary-General to submit a report on the progress made in the conduct and development of personnel policy and invited him to submit recommendations as to any further action that might be required of the General Assembly. These requests were made in the light of the issues of policy which had been discussed at the last session of the General Assembly, and also with a view to issues which might develop subsequently - in particular, in regard to information received from governments and the recent judgments of the Administrative Tribunal - which are summarized in annexes I and II of the present report.

14. Irrespective of this request and invitation, I considered it one of my first duties as Secretary-General to review the administrative system and the rules applying to service in the United Nations. In the course of this review, I found that the present Staff Regulations suffer from ambiguities and omissions, which make certain revisions essential. My proposals are influenced by experience gained during my own term of office, as well as that of my distinguished predecessor. They are, however, based on considerations of a general nature, and they are in no way adjusted to special circumstances prevailing at a particular time or in relation to a particular country.

15. The principles of the Charter relating to the Secretariat form the foundation for personnel policy. On the part of the staff these principles require a full acceptance of the discipline imposed on an international secretariat by its special status. As for the Secretary-General, they impose upon him the responsibility for maintaining the high standards required by the Charter, so as to assure the Member States not only of the competence and efficiency of the staff but also of their impartiality and integrity. Finally, these principles require recognition of the independent authority and responsibility of the Secretary-General for the administration of the staff, in accordance with the Charter and the regulations adopted by the General Assembly.

16. The concept of a permanent civil service was adopted by the Organization in its earliest days and repeatedly affirmed. In the interest of both the independence of the Secretariat and the quality of its members, it was considered essential that the staff should enjoy the maximum practicable security of a career service based on permanent appointments. It was not found advisable to delay the transition to a full-fledged career service in order to allow accumulation of wider experience in dealing with the special problems of an international civil service. The transition may be said to have taken place on a trial and error basis, and certain obvious risks were accepted in order to achieve a satisfactory degree of stability as rapidly as possible.

17. The direction of the efforts is reflected in the restrictively formulated grounds for termination of permanent appointments and in the legal protection given to staff members of the United Nations through the early institution of an Administrative Tribunal.

18. The holder of a permanent appointment can be terminated only for specific reasons defined in the Staff Regulations. These reasons, set forth in Staff Regulation 9.1 (a), limit the power of the Secretary-General to terminate a permanent appointment to cases of unsatisfactory service or where a post is abolished or where, for reasons of health, an employee is incapacitated for further service. Finally, the Secretary-General is empowered, under Regulations 10.1 and 10.2, to dismiss a member of the staff for misconduct.

19. In interpreting the terms "unsatisfactory service" or "misconduct", the Secretary-General should be guided by the provisions of Article 101 of the Charter, which states that "the paramount consideration in the employment of the staff ... shall be the necessity of securing the highest standards of efficiency, competence, and integrity." He should also be guided in matters of conduct especially by Staff Regulation 1.4 which provides:

> "Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status. While they are not expected to give up their national sentiments or their political and religious con-

they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status."

20. There is room for doubt concerning the implementation of the relevant Staff Regulations in the light of the Charter provisions. The task of interpreting in specific cases the reciprocal rights and duties of the Organization and of staff members has been entrusted primarily and principally to the Secretary-General, but appeals may be brought by staff members to the Administrative Tribunal, whose competence is defined by the terms of its Statute.

21. Recent experience shows how the Administrative Tribunal, applying tests of legal interpretation to the present Staff Regulations, may find that the Regulations do not permit the Secretary-General to terminate staff members in cases in which he considers that they have failed to meet the standards required by these Regulations, interpreted in the light of his obligations under the Charter, and that consequently termination of their appointments is indicated and legally justified.

22. The situation illustrates the main conclusion referred to at the beginning of my statement: that the present Staff Regulations call for reconsideration. In my judgment, the objective of such a reconsideration should be to revise the Regulations in the light of the Charter, so that they will provide a just and legal foundation for sound administration, taking into account the equal importance of the independence of the staff and of the effective functioning of the Organization.

(ii) Political activities by staff members

23. Perhaps the most obvious need for clarification or amplification concerns political activities of staff members. In contrast to activities of a subversive or otherwise criminal nature, it is, of course, normally considered a right of citizenship, and at times even a duty, for a person to engage in the political life of his society.

24. Such participation in itself, of course, cannot be said to "reflect unfavourably" on a staff member. Even less can the fact that a staff member engages in political activities be regarded a priori as "unsatisfactory service" or "misconduct". On the other hand, the special nature of international service, the

often highly delicate relations of the Secretariat with the governments of Members, and similar circumstances may make it most inadvisable for an international civil servant to engage in political activities. In a particular case, for example, it may be obvious to the Secretary-General that certain political activities of a staff member impede or frustrate the proper working of the Organization because those activities cast doubt on the neutrality and independence of the staff in relation to domestic controversies in a Member country or with respect to differences between Member countries.

25. The Secretary-General, being the organ of the United Nations responsible for administration, should have the right to exercise his judgment in these matters, though, of course, this should always be done in a way free from arbitrariness and discrimination. This is necessary in order to permit him to meet his responsibility for the maintenance of the Charter standards and the impartiality of the staff. A staff member may consider his political activities appropriate to and consistent with his international status, and may, for that reason, be unwilling to accept the judgment of the Secretary-General to the contrary. It is my considered view that the sound operation of the Organization requires that such a staff member choose between continuing his political activities or remaining an employee of the United Nations.

26. However, the right of the Secretary-General, in spite of its background in Article 100 of the Charter, to place such a choice before an employee is, under the present Regulations, at best doubtful. This is a weakness in the present system, requiring a clarification which would give expression to the right of the Secretary-General to decide whether or not certain political activities are compatible with an employee's international status. I have reached the conclusion that, for this reason, there should be added to the Staff Regulations an explicit statement that political activities, apart from the civic right of voting, shall be prohibited, unless otherwise authorized in accordance with Staff Rules issued by the Secretary-General.

It is impossible fully and in detail to spell out in a legal text what ific activities are to be considered "political", in the sense of the proposed ulation. This difficulty is especially obvious at the present stage, before the

matter has been sufficiently studied and experience gathered. The regulation on this subject must be formulated so as to furnish a generally applicable legal standard in a world of widely differing traditions and political systems. The fact that the proposed regulation leaves - and necessarily must leave - the responsibility for its implementation to the Secretary-General raises, however, questions of controls, including that of the position of the Administrative Tribunal, to which I shall revert at a later stage of the present report.

(iii) Integrity of staff members

28. A second conclusion drawn from my study of the present rules concerns the standards of integrity which should govern in considering the fitness of employees of the Organization.

29. As already mentioned, the Charter indicates "integrity" as one of the basic conditions for employment. The full sense and all the implications of the word "integrity" as used in the Charter - obviously with reference to certain generally accepted moral standards - is not covered by the phrases "unsatisfactory service" or "misconduct", as used in the Staff Regulations and interpreted by the Administrative Tribunal.

30. It is easy to find examples which would illustrate this discrepancy. It may be discovered that, prior to employment with the United Nations, a staff member committed an offence or other act reflecting so unfavourably on his character as reasonably to deprive him of the confidence of his superiors and of the Secretary-General which is necessary in the interest of the service. Nevertheless, if the act took place prior to employment, it cannot be treated as "misconduct" or "unsatisfactory service" under the present regulations. The Secretary-General, in such a case, should not be barred from taking action required by the Charter, on the basis of his determination of the staff member's lack of integrity. Such action would obviously be just as much in the interest of the staff as of the Organization.

31. Another example of lack of integrity might be the case where a staff membe - in a situation relevant to his obligations in that capacity - seeks to safegu his purely personal interest despite his knowledge that by so doing he causes r and substantial harm to the Organization. If he finds himself in a position wh

his duty and his interest conflict, he should either subordinate his personal interests or leave the Secretariat.

32. In this case, too, it is doubtful whether the present rules would permit the Secretary-General to take the necessary action. This uncertainty calls for a review of the Regulations since it creates a situation in which a conflict between the Secretary-General and the Administrative Tribunal would be likely to arise because of the present ambiguity in the legal situation. The Secretary-General is in duty bound to seek to carry out the requirements of sound administration to the fullest extent which the Staff Regulations seem to permit in the light of the Charter. The Tribunal, on the other hand, would necessarily have a different perspective and might, from its angle of interpretation, arrive at a contrary conclusion.

33. The breeding of such conflicts between the administrative and strictly legal approaches should be avoided by a proper amplification of the Staff Regulations as to the grounds upon which the Secretary-General may terminate employment. This should be done wholly in accord with the letter and spirit of the Charter. By specifying lack of integrity as a ground for termination, the ambiguity would be eliminated in full conformity with the provisions of the Charter.

34. Specification of lack of integrity as a ground for termination would put on the Secretary-General the responsibility for a partly discretionary interpretation, comparable to that referred to above in connexion with the broad proscription of "political activities". It goes without saying that in both cases his decisions must rest upon established facts thoroughly evaluated by him. The conclusions to be drawn from the established facts must reflect his own opinion as to their weight and their effect upon the requirements of sound administration. He must formulate and apply principles which ensure that his decisions in specific cases rest firmly upon unbiased non-discriminatory considerations, consistently applied and wholly free from arbitrariness.

35. His personal judgments in interpreting and applying to specific cases the newly formulated grounds for termination lie within his normal area of responsibility under the Charter as chief administrative officer of the Organization. These judgments would lead, step by step, to the development of a body of principles.

His decisions would be subject to review by the Administrative Tribunal which also in these new cases would act with all the competence vested in it under the Statute. It thus would have authority to assess certain facts, to interpret the legal provisions applying and to determine whether a decision of the Secretary-General rests upon required procedures and whether it reflects bias, discrimination or arbitrariness. The Tribunal may, on the other hand, be expected to accept his interpretations and evaluations as to what constitutes "lack of integrity" or "political activity", to the extent that they obviously involve considerations of administrative policy which are not open to a review of a strictly legal nature.

(iv) Review by the General Assembly of the principles of interpretation

36. Requirements of orderly administration and the necessity of meeting the standards of the Charter thus lead to the conclusion that the present rules should be clarified or amplified in the two respects I have mentioned. The specification of new grounds for termination automatically widens the field where the Secretary-General would be entrusted with responsibilities for interpretation of standards established in the Staff Regulations. As already indicated such interpretation includes elements which necessarily fall outside the framework of the strictly legal considerations appropriate to the Administrative Tribunal.

37. A development along the lines suggested would in no way involve a revision of the sphere of legal competence of the Tribunal and thus the legal protection given a staff member would remain unchanged. However, the widening of the responsibilities of the Secretary-General in a sphere which cannot appropriately, to its full extent, be subject to review by a tribunal confined to strictly legal criteria, already in my view directs attention to the desirability and possibility of supplementary forms of control, adapted to the specific nature of the decisions to be reviewed.

38. In the constitutional and legal traditions of a great number of countries, the form of control normally exerted upon the chief executive (where strictly legal criteria are inapplicable) is what may be called a parliamentary one.

39. In the United Nations the closest analogy to such parliamentary control would be an arrangement by which the General Assembly would have opportunities of discussing the principles applied by the Secretary-General in his interpretation of

the proposed new grounds for termination to the extent that they are not of a nature which puts them under the control of the Tribunal. If the proposals made in the present report are adopted, I would consider such a review of principles of interpretation by the General Assembly as a step in the right direction in the development of a balanced and sound constitutional and legal system in the United Nations administration.

40. As principles are evolved by the Secretary-General through his administrative interpretations of the newly specified grounds for termination, these principles should be brought to the notice of the General Assembly. This will be the case next year in connexion with the consideration of a pending report from the International Civil Service Advisory Board, and again when the procedures suggested here have been tried for a suitable period so that an attempt can be made to translate into a legislative text the principles thus far evolved.

(v) Action in the interest of good administration

41. What I have said above does not exhaust my conclusions as to the development of the present Staff Regulations in the light of the needs of sound personnel policy. The foregoing proposals embody the minimal programme I consider necessary to enable the Secretary-General to fulfil his duties under the Charter as regards the standards to be maintained by the Secretariat. I do not believe that these proposals, standing alone, will do the whole job that needs to be done.

42. The gap left in the present formulation of the rules by reason of the omission of "integrity" as one of the standards for employment established in the Charter would be filled by the proposal I have made above. However, it must be noted that a finding of "lack of integrity" carries a serious implication of moral fault, which calls for such a restrictive implementation as makes it likely that, in practice, a discrepancy between the obligations of the Secretary-General under the Charter and his powers under the Staff Regulations would remain. That may be the case also for other reasons.

43. For example, evidence may come to hand of conduct of a staff member demonstrating a serious lack of balance or judgment. Although the standards of the Charter must be considered as covering also such a case, it may be unjustified to decide on termination with lack of integrity, or misconduct, or unsatisfactory

service as the reason given. It is the clear duty of the Secretary-General not to stigmatize a staff member in controversial cases. A broad interpretation of the term "integrity", as of the terms "unsatisfactory service" or "misconduct", should be avoided. The Secretary-General may, therefore, in cases of the kind referred to here, easily find himself barred from taking termination action in spite of his conviction that such action would be in the interest of good administration, as defined in the Charter. This gap would not be closed unless the Secretary-General were clearly given the right to terminate appointments when such action is in accordance with the standards of the Charter and is called for in the interest of the good administration of the Organization. A provision to that effect would enable the Secretary-General to interpret narrowly the criterion of "integrity", restricting its application to morally objectionable attitudes or actions. His interpretation of the term may be reviewed by the Tribunal to the extent that it involves considerations open to a strictly legal review. So may his use, in accordance with the Charter, of the powers given to him in the interest of good administration.

44. In line with these considerations I am proposing that, in addition to an amendment to Regulation 9.1 (a) authorizing termination of a permanent appointment if the Secretary-General determines, in accordance with the standards prescribed by the Charter, that a staff member has shown lack of integrity, there should also be a provision for termination in the interest of good administration of the Organization, where such a termination is justified under the standards of the Charter. This additional provision obviously limits the considerations relevant to the decision to terminate to reasons relating to the internal working of the Secretariat or to its independent and impartial status.

45. I would have hesitated to suggest such an amendment if I had not, in any event, concluded that a widened parliamentary review of the principles applied by the Secretary-General in his implementation of the Staff Regulations would represent a natural development. I am confident that the possibility of such a review provides an added safeguard against arbitrariness, supplementing the control by the Tribunal in a way which justifies the grant of broader authority to the Secretary-General.

46. As this third new element in the Staff Regulations would mean that the Organization assumes the right in its own interest in exceptional cases to terminate with reference only to the needs of good administration, it seems appropriate that the Secretary-General should be given the power to pay an indemnity to the person concerned if he finds that the circumstances call for it. Such payment would, of course, not prejudice such rights as the staff member may have under the Statute of the Administrative Tribunal. This suggestion has a wider application which will be discussed later in the present report.

47. The proposed clarifications and amplifications of the Staff Regulations may be considered as specifying elements important to the character of permanent appointments in the United Nations. The development of the status of permanent service suggested here involves, however, only a shift of emphasis from the present provisions of the Staff Regulations to the provisions of the Charter, which thus will be more adequately reflected in personnel policy and in the reviewing of that policy by the Administrative Tribunal and by the General Assembly. To the present legal safeguards for the staff, which are automatically extended to cover also the new cases, supplementary safeguards are at the same time added.

(vi) Additional arrangements

48. I favour additional modifications in the present administrative system in the interest of the staff. I am not yet ready to place before the Assembly definite proposals. These are now being studied in the Secretariat. But I wish to indicate the main lines which, in my view, should be followed in the interest of orderly procedures.

49. First of all, I consider it essential that the standards on which the Secretary-General intends to base his decisions should be announced as fully as possible for the guidance of the staff. This can be done at present only to a very limited extent, since the work of the International Civil Service Advisory Board is not yet completed and their report on the matter is not likely to be submitted until next spring. The report and recommendations of the Board will have an important bearing on this whole problem and on the policy of the Secretary-General. I do not intend, by establishing definite standards at this stage, to prejudge the work of the Board, nor the decisions

that may be taken by the General Assembly on the basis of the recommendations submitted. Subject to this, however, I shall endeavour to define, as far as circumstances permit, the principles upon which I shall base my decisions.

50. A further arrangement which the Secretary-General is entitled to make and which I intend to put into force is the setting up of procedures whereby staff members may, if they desire, place on record any statements, evidence or information which they consider relevant regarding charges made against them. This would place at the disposal of the staff an arrangement whereby staff members could put on record before an independent body of equals what they themselves consider to be the facts of the situation. It is, of course, normally open to a staff member to give his version to a supervisor or, ultimately, to the Secretary-General, but this procedure is not always the most satisfactory for either of the parties concerned. The Secretary-General is the official who has to reach decisions and for that reason should not at the same time have another function in the procedure.

51. The arrangement planned would mean that a staff member voluntarily could complete or perfect his version of the record upon which the Secretary-General bases his decision as to the action to be taken. It would ensure that the Secretary-General would have before him all the evidence considered relevant by the staff member concerned. The body contemplated under this arrangement would not be entitled to draw any conclusions, nor to make recommendations; it would be authorized to question the staff member only to clarify the information reported by him.

52. The procedure would not in any way duplicate other arrangements which form part of the administrative procedure of the Organization, nor would it be in conflict with arrangements for hearing or investigation which may be made by Member States.

53. A third new safeguard would aim at making it easier for the employee to get qualified legal counsel before the Administrative Tribunal. The suggestion at present under study is that under the aegis of the Administrative Tribunal a panel of qualified lawyers might be set up from which the Tribunal, at the request of an applicant, if it finds it appropriate, would assign one member to serve as legal counsel to the applicant. The applicant would, of course be free to choose any other legal counsel he might wish. However, if the

applicant used one of the members of the panel indicated by the Tribunal, arrangements would be made to have part of the cost of the legal services defrayed in such a way as to enable the employee to afford the most competent legal assistance.

(vii) Conclusion

54. To sum up the suggestions outlined in this general presentation, they are designed as a whole to do two things. On the one hand, they would give the Secretary-General certain clearly expressed powers, matching his obligations as defined in the Charter. On the other hand, this development would be balanced by checks on the Secretary-General and fuller protection for the staff. Thus, the decisions of the Secretary-General would remain subject to review by the Administrative Tribunal to the full extent of its present legal authority, but to this would be added the possibility of a review by the General Assembly of the principles developed in his implementation of the standards specified in the Staff Regulations.

55. It is my conviction that these steps will tend to establish a sound balance and relationship between the interests of the Organization on the one hand and the interests of the staff on the other. The added possibilities which these suggestions provide for a constructive development of administrative policy will, in my judgment, contribute to the growth of the Organization as an institution possessing a qualified and independent international Secretariat.

56. This approach, which must necessarily be tentative in some of its aspects, should result in the development of a set of principles and procedures better adapted to the needs of the Organization than those now existing. I am confident that the number of staff members that may be affected by the proposed regulations will be very limited; in the future, the appointment policy suggested later in the present report will provide an added safeguard against developments calling for a wider application of those regulations. This, however, does not detract from the importance of the new arrangements.

57. I believe that the new regulations, especially in the beginning, will have to be implemented with great caution, in view of the lack of sufficient experience and in view also of the fact that the development of standards to be applied is still at an early stage. There is a special obligation on the

Secretary-General to apply them with restraint, as any decisions which are not based solidly on firm principles and a correct evaluation of facts would impair the necessary confidence in the Administration and would thus vitiate the basic purposes of the proposals.

B. Proposed amendments to the Staff Regulations

(i) Proposed amendment to Staff Regulation 9.1(a) regarding termination of permanent appointments

58. The following additional paragraph to Regulation 9.1(a) is proposed:

"The Secretary-General may also terminate the appointment of a staff member who holds a permanent appointment:

"(i) If the conduct of the staff member indicates that the staff member does not meet the high standards of integrity required by Article 101, paragraph 3, of the Charter;

"(ii) If he learns of facts, anterior to the appointment of the staff member and relevant to his administrative suitability, which, if they had been known when the staff member was appointed, should, under the standards established in the Charter, have precluded his appointment; or

"(iii) If such action would be in the interest of the good administration of the Organization and in accordance with the standards of the Charter.

"No termination under this paragraph shall take place until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Secretary-General."

59. It is difficult to give any precise definition to the term integrity, but there are generally accepted moral standards which should apply. Integrity must be judged on the basis of the whole conduct of the person concerned. A lack of integrity can be shown by acts of various types, for example, offences against the law which involve dishonesty or untruthfulness, or acts which, though not criminal, show a lack of probity or fidelity. Examples of acts of the latter type would be acts by a staff member involving a violation of the oath which he has taken to the United Nations, such as the act of receiving or soliciting favours to influence

him in his duties. On the other hand, the term integrity and the term loyalty, as often applied in the political sphere, do not cover the same set of considerations, although, of course, in a case of contested "loyalty", acts might come to light which indicate a lack of integrity as an independent fact.

60. The suggested text of sub-paragraph (i) would permit the Secretary-General to take action, in accordance with the standards of the Charter, on the basis of facts concerning a staff member's conduct even before his employment by the United Nations. It may be discovered that in the past a staff member has committed acts which seriously reflect also on his present integrity; he may, for example, have committed a universally recognized offence or some act which, while not criminal, clearly shows a lack of probity. On the other hand, a staff member's later conduct and attitude may show that, whatever his past conduct, he now meets the highest standards of integrity. It should be stressed that the judgment to be made is always one regarding the staff member's present integrity, and that, thus, past conduct can only be evidentiary.

61. Sub-paragraph (ii) covers a different problem from the one just referred to. It envisages cases where an appointment has been given on the basis of incomplete knowledge of the personal record of the applicant. When the new information refers to facts relevant under the standards of employment established in the Charter, termination may be indicated without direct reference to the present situation. Such is the case in the situation especially envisaged in this provision, where the applicant himself wilfully has given false or incomplete information. It is clear from the suggested text that the standards applied in the decision must be such as were recognized at the time of the appointment.

62. A special problem, which may be dealt with in this context, is that of alleged subversive activities on the part of staff members. The term "subversive activities" is sometimes used loosely to cover a wide range of activities; it may, however, properly be defined as was done in the last report of the Secretary-General on personnel policy[3/], that is, as "activities directed towards the overthrow of a government by force, including conspiracy towards such overthrow and incitement and advocacy of it". It is beyond doubt that such activities, if carried on by a staff member during the period of his employment by the United

3 / See Official Records of the General Assembly, Seventh Session, Annexes, agenda item 75, page 15, document A/2364, paragraph 97.

Nations, are grave violations of the standards of conduct applicable to staff members, and should lead to discharge. If such actions were carried on before employment by the United Nations, and if they consisted of serious and generally recognized offences such as espionage or sabotage, they will normally reflect on the present integrity of the staff member concerned. If there is such a reflection on a staff member holding a permanent appointment, the matter might be dealt with under Staff Regulation 9.1(a) amended as suggested above.

63. If, exceptionally, such activities engaged in by a staff member before his employment with the United Nations should not reflect on his present integrity, and if there is no indication that during his employment he had engaged in subversive activities, action would not appear justifable. As already indicated, lack of integrity should under no circumstances be imputed without adequate evidence to support it as a fact of the present, in the light of United Nations standards.

64. The conclusions of national authorities concerning activities by staff members are, of course, not binding on the United Nations, which must appply its own standards. Obviously, however, national findings of fact, arrived at in accordance with generally recognized requirements of due process of law, are entitled to weight.

65. The last report of the Secretary-General on personnel policy introduced in the discussion of the problem of past subversive activities by staff members the criterion whether the person concerned could be reasonably believed to be "likely to engage" in such activities. This criterion, from a legal point of view, is open to the objection that it involves a judgment as to what may be anticipated in the future. The notion of a consideration of past activities in terms of future possibilities should be discarded. The only sense in which the assumed likelihood may be of relevance should be covered by the standard of integrity required by Article 101 of the Charter and thus considered in the light of the rules concerning present suitability generally applied.

66. Sub-paragraph (iii) deals with an area of personnel administration where special difficulties in acting on the basis of defined standards come into play. The general considerations which have led to the proposal have been set out in the preceding section of the present report. This sub-paragraph would give to the Secretary-General powers, as to the maintenance of high administrative standards of fitness for employment, commensurate with his responsibility in th

respects under the Charter. The criterion of "good administration", combined with the reference to the Charter, is intended only to cover this need, excluding decisions based on considerations of alleged or presumed political interests of the Organization. Obviously, however, the relevant standards of the Charter include also those defined in Article 100. The Secretary-General would have to be the judge of what constitutes the "interest of good administration". His right of action under this provision is strictly limited by the letter and spirit of the Charter and subject to appeal to the Administrative Tribunal to the full extent that legal considerations can apply.

67. A special provision, in the interest of staff members, is incorporated in a sub-paragraph of the proposed amendment. This sub-paragraph provides that terminations are to be made only after consideration by a special advisory board appointed for the purpose by the Secretary-General. Naturally, the staff should be properly represented on this board.

(ii) Proposed amendment to Staff Regulation 1.4 relating to conduct reflecting on integrity, independence and impartiality

68. It is proposed to amend Staff Regulation 1.4 as follows:

> "Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status."

69. It has already been emphasized that integrity, complete impartiality and independence from any authority outside the United Nations in the performance of their duties are vital requisites for staff members. The above amendment is not intended to alter the meaning of present Staff Regulation 1.4, but only to make it more explicit and to give further clarification concerning the types of

action by United Nations staff members which may adversely reflect on their status.

70. One problem in this connexion is the use by a staff member of the privilege against self-incrimination in an official national inquiry concerning subversive activities and related matters. Such use of the privilege is a constitutional right in some countries and, consequently, it may be inappropriate to consider it as a ground for disciplinary action. However, the invocation of the privilege in an official inquiry concerning subversive activities must be recognized as a serious matter, since it may give rise to doubt as to the staff member's integrity. Under certain conditions, it may be considered as incompatible with the status of an international civil servant. But a conclusion to the effect that the staff member should cease to serve in the Secretariat because of his invoking the privilege, cannot be drawn without further investigation. It can be reached only after investigation of the circumstances; the staff member should be given an opportunity to present his side of the case and to inform the Secretary-General of the reasons why he invoked the privilege. If this investigation gives an explanation of the action which removes its unfavourable implications, termination is not justified on the basis of the standards proper to the United Nations.

71. A special problem, which can be dealt with by a new staff rule and which does not require an amendment to the Staff Regulations, is that of criminal activities on the part of staff members. The Secretary-General intends to provide in a new staff rule, issued under Staff Regulation 1.4, that any staff member who is arrested, indicted or summoned into court as a defendant in a criminal proceeding, or convicted, fined or imprisoned for the violation of any law (excluding minor traffic violations) shall report that fact to the Secretary-General.

72. The standard of conduct applicable to staff members is more exacting then ordinary legal standards. A conviction by a national court will usually be persuasive evidence of the commission of the act for which the defendant was prosecuted. And acts which are generally recognized as offences by national criminal laws normally will be violations also of the independent standard of integrity developed by, and proper to, the United Nations. However, the Organization must remain free to take no account of convictions of staff members for trivial offences or for offences which are generally held not to reflect on integrity, or of convictions made without observance of the generally recognized requirements of due process of law.

(iii) Proposed amendment to Staff Regulation 1.7 relative to political activities on the part of staff members

73. It is proposed to replace the present Staff Regulation 1.7 with a new provision reading as follows:

"Unless otherwise authorized in accordance with Staff Rules issued by the Secretary-General, staff members shall not engage in any political activities outside the scope of their official duties, other than voting."

74. Staff members should obviously not take part in political campaigns, or in political canvassing or management. This covers also, for example, public statements on issues of a political character, outside the scope of their official functions. The provision recognizes the principle that in certain areas of activities, legitimately open to the ordinary citizen, the international civil servant can play no part, or only a limited part. Some types of political activities cannot adversely affect the United Nations; this might be the case, for example, with purely local political activities not involving issues of more than local interest, such as service under ordinary conditions on a school board or town council. Similar considerations are applicable in cases of organizations which primarily are of a non-political character - for example professional or philanthropic associations.

75. It is too early to define in detail the implementation of the prohibition, which must be left to be worked out in practice by the Secretary-General.

76. The provision, of course, has no retroactive implications. Previous activities are of significance only if they should reflect unfavourably on the staff member's present integrity or administrative suitability under the standards established by the Charter.

77. In the implementation of the provision the staff member's rights to his religious or political convictions should be fully respected.

(iv) Proposed amendment to Staff Regulation 9.3

78. It is proposed to add to the present Staff Regulation 9.3 a new provision reading as follows:

"The Secretary-General may, when he considers it justified, pay to a staff member terminated under Staff Regualtion 9.1 (a)

an indemnity payment twice that which would otherwise be payable under the Staff Regulations."

79. Where a staff member, having a permanent appointment, is terminated in the interest of good administration under the proposed amendment to Staff Regulation 9.1 (a), it is suggested that the Secretary-General should be authorized, when he considers it justified, to pay a higher indemnity than the one otherwise payable under the Staff Regulations. In those exceptional cases where no other specified reason is given for termination than the interest of good administration, it may in most cases prove fair that such special indemnity should be paid to compensate for the abrogation of a permanent appointment. Such an authorization given to the Secretary-General to provide for compensation obviously should in no way prejudice the staff member's right of appeal or the Administrative Tribunal's competence to grant a higher compensation than that decided upon by the Secretary-General.

80. However, such reasons as would apply in these cases may call for similar powers for the Secretary-General also where termination is found necessary because of the abolition of posts or for reasons of health. The plans for a streamlining of the administration on which I intend to report later to the General Assembly, may make this problem more important than it would otherwise have been. I therefore have found it justified to suggest an amendment to the Staff Regulations giving the Secretary-General the authority proposed, without limitation to cases of termination in the interest of good administration.

Chapter II. Revision of article 9 of the Statute of the Administrative Tribunal

81. The Secretary-General, following the judgments of the Administrative Tribunal on 21 August 1953, has reviewed the Statute of the Tribunal. In the light of past experience he is of the opinion that it would be desirable for the General Assembly to consider at its eighth session the revision of article 9 of the Statute. Article 9 reads as follows:

> "If the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked; but if, in exceptional circumstances, such rescinding or specific performance is, in the opinion of the Secretary-General, impossible or inadvisable, the Tribunal shall within a period of not more than sixty days order the payment to the applicant of compensation for the injury sustained. The applicant shall be entitled to claim compensation in lieu of rescinding of the contested decision or specific performance. In any case involving compensation, the amount awarded shall be fixed by the Tribunal and paid by the United Nations or, as appropriate, by the specialized agency participating under article 12."

82. Under this article rescinding of the decision contested, or specific performance of the obligation invoked, is the usual remedy provided in those cases in which the Tribunal finds that the application is well founded. The Secretary-General may depart from this rule only in exceptional circumstances when, in his opinion, such rescinding or specific performance is impossible or inadvisable. On the other hand, the applicant, without reference to exceptional circumstances, may claim compensation in lieu of rescission or specific performance. Furthermore, under the present article, there is no limit placed on the amount of compensation which may be awarded.

83. Experience has indicated that, particularly in cases involving termination of appointment, where the Tribunal finds that the application is well founded, the payment of compensation should be the rule rather than the exception. It

is normally not in keeping with the interest of good administration to reinstate an employee whom the Secretary-General has considered it necessary to terminate. At the same time, from the point of view of the staff member, it is not desirable to require a new finding by the Secretary-General that reinstatement is "impossible or inadvisable". Administrative experience and considerations indicate that the normal reaction, in case a decision of the Secretary-General is not upheld by the Administrative Tribunal, should be the payment of compensation. In those circumstances, however, where the Secretary-General believes that it would not be disadvantageous to rescind his decision, he should have the option of offering such rescission to the applicant in lieu of the compensation ordered.

84. From the point of view of financial administration, it is also desirable that a limit should be placed on the compensation which may be awarded. Two years' net base salary would appear to be a reasonable maximum in cases of termination or dismissal. If in any case the Tribunal finds such compensation insufficient, it is, of course, free to recommend the payment of a higher indemnity in the special case under consideration.

85. Another problem arising with respect to article 9 involves cases where the Administrative Tribunal finds that a certain procedure has been omitted or incorrectly applied. Because of this procedural defect the Tribunal may find in favour of the applicant, although the action of the Secretary-General would have been proper if the procedure in question had been followed. In these instances, it is believed that the United Nations should only be required to pay compensation for any loss sustained as a result of the failure to apply the appropriate procedure, and not for termination or other action which otherwise would have been proper.

86. It may be noted that in a recent case before the Administrative Tribunal where there was a defect in the proceedings before the Joint Appeals Board, the case was returned for appropriate proceedings before the Board. It would appear desirable that the Secretary-General should be given the same opportunity by the Tribunal with respect to other procedures, including the reference of cases involving misconduct to the Joint Disciplinary Committee. Compensation should, of course, be paid for such loss as may have been caused by the

procedural delay, again with a reasonable maximum which, it is suggested, would be the equivalent of three months' net base salary.

87. In order to accomplish the above objectives, it is proposed that the General Assembly should consider the amendment of article 9 of the Statute of the Administrative Tribunal, along the following lines:

Article 9

1. If the Tribunal finds that the application is well founded, it shall order the payment of compensation for the injury sustained; provided that in no case of termination or dismissal shall such compensation exceed the equivalent of two years' net base salary of the applicant; and provided further that the Secretary-General may, within a period of sixty days, offer to rescind the decision contested or to grant specific performance of the obligation invoked, which offer may be accepted by the applicant in lieu of the compensation ordered by the Tribunal.

2. Should the Tribunal find the procedure prescribed in the Staff Regulations or Staff Rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits, order the case remanded for institution or correction of the required procedure. Where a case is remanded the Tribunal may order the payment of compensation, not to exceed the equivalent of three months' net base salary, to the applicant for such loss as may have been caused by the procedural delay.

3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the United Nations or, as appropriate, by the specialized agency participating under article 12.

PART II. OTHER PERSONNEL PROBLEMS

Chapter I. Progress in reviewing temporary staff

88. In his report to the seventh session,[4] the Secretary-General described the general personnel policy under which the Secretariat had developed from a hastily assembled group of some 2,800 temporary staff members in December 1946 into the permanent Secretariat of 1953. At that time he noted that the review of temporary staff members who had been appointed before 1 January 1950 would continue throughout 1953, and he expressed the expectation that by the end of this year the review of long-service temporary staff would have been substantially completed. As the end of the year approaches, the Secretary-General is able to report that this expectation has been largely fulfilled.

89. As previously reported,[5] a Selection Committee appointed by the Secretary-General under the chairmanship of Mr. F.P. Walters, former Deputy Secretary-General of the League of Nations, conducted the review of temporary staff at Headquarters in 1952 and in the European Office of the United Nations early in 1953. The review was continued at Headquarters in 1953 by two committees, one under the chairmanship of Sir Ramaswami Mudaliar and the other under the chairmanship of Dr. Ivan Kerno.

90. Before the end of the year these committees will have completed the review of 1,082 temporary staff members at Headquarters appointed before 1 January 1951, of whom 567 were in the Professional category and 515 in the General Service category. To these figures at Headquarters must be added 296 staff members already reviewed in the European Office of the United Nations.

91. Early in 1954, the Selection Committee will undertake the review of the staff of the Economic Commissions for Latin America and for Asia and the Far East and of the staff serving in the United Nations Information Centres. Thus, in a few months time the review of temporary staff appointed before 1 January 1951 will be brought virtually to an end.

4/ See Official Records of the General Assembly, Seventh Session, Annexes, agenda item 75, pages 5-8, document A/2364, paragraphs 13-43

5/ Ibid., pages 7-8, paragraphs 35-38.

92. Simultaneously, a second form of regular review of staff members has been in operation in the Secretariat. This is the review, proposed first by the Preparatory Commission in 1945, of permanent staff members who have completed five years of service in that status. The first permanent appointments were granted during 1947 and the first group of permanent staff members was, therefore, reviewed in 1952. The Secretary-General appointed a Five-Year Review Committee composed of senior officials of the Secretariat. To date, the Committee has reviewed 670 permanent staff members. The Secretary-General has accepted the recommendation in virtually every case.

93. Thus, the work of consolidating the staff of the Secretariat and establishing it, with the relatively few but necessary exceptions, on a career basis has been largely accomplished. The problem of large numbers of temporary staff having considerable seniority in the service, and of the numerous difficulties connected with that problem, is rapidly disappearing. The Secretary-General wishes at this time to place on record his conviction that the United Nations is at present served by a dedicated and competent group of men and women on whom he may thoroughly rely for the accomplishment of the tasks lying ahead. The time has now come when it is possible and necessary to turn attention from the problems of the past, resulting from the unavoidable difficulties of the formative years, to the tasks of the future, and to concentrate on the completion and implementation of personnel policies best suited to the needs of a permanent Secretariat.

Chapter II. Appointment policy

94. The basic aim of an appointment policy devised for the present needs of the Secretariat is to create the most favourable conditions for the development of a body of permanent international civil servants meeting the highest possible standards of efficiency, competence and integrity. This body should be endowed with a sufficient degree of flexibility to undertake, with a minimum of outside assistance, the reasonably wide range of tasks both in volume and in variety, which the Organization will be called upon to perform in the future.

95. Under such a policy, outside recruitment would be conducted mainly for the purpose of securing replacements, including candidates of nationalities not adequately represented, for posts vacated due to the process of normal turnover. Every effort would be made to select the highest possible calibre of candidates, and every precaution would be exercised to avoid wasteful recruitment of persons unsuitable for the international civil service.

96. Candidates recruited for continuous service would be given appointments in probationary status, such probation to be of a duration of not less than two years. Towards the end of their second year of service they would be submitted to review and, as a result, either granted permanent appointments, or separated from the service; in exceptional cases, the period of probation might be extended for one additional year. Some predominantly local groups of staff would be granted in the same conditions a different type of appointment, more suited to the nature of their employment than the permanent appointment, but nevertheless clearly indicating the possibility of continuous long term service. A proposal for the introduction of a new staff regulation governing the period of probation will be submitted in a separate document (see agenda item 50).

97. If the need arises, as it inevitably must from time to time, to engage outside assistants for work of a temporary nature or limited duration, or occasionally to recruit persons who because of their occupational or personal status it is not possible or advisable to integrate in the permanent service, such a need would be met by the granting of special types of appointment, the main characteristic of which will consist in a clear stipulation that no expectancy of continuous service is implied.

98. In order to implement these policies, the Secretary-General has devised, within the framework of the existing Staff Regulations, a suitably adapted system of appointments, and has decided to consolidate and strengthen the existing advisory administrative machinery for the appointment, selection and review of staff. This machinery, established to assist the Secretary-General and his Bureau of Personnel, will consist of two Boards, the Appointment and Promotion Board and the Personnel Selection and Review Board, appointed under conditions ensuring their internal independence and impartiality.

99. It will be recalled that the Staff Regulations provide a basic distinction between permanent and temporary appointments. It will be the policy of the Secretary-General to grant permanent appointments to staff members in the Principal Officer and Director category below the rank of Principal Director, to staff members in the Professional category and to staff members serving in the intermediate and higher levels of the General Service category. These groups of staff constitute, in the considered opinion of the Secretary-General, the core of the international civil service and should receive, after they have proved their suitability during a period of probation, the maximum security of tenure consistent with the basic interests of the Organization. Permanent appointments will be granted only to those members of the staff who, by their qualifications, performance and attitude as staff members, have fully demonstrated their suitability as international civil servants and who have proved that they meet the required high standards of efficiency, competence and integrity prescribed by the Charter.

100. As from 1 January 1954, temporary appointments will be divided into two groups in order to conform to the basic objectives of future recruitment, i.e., either to replace or secure staff for which continuous service is envisaged (the Probationary appointment and the Regular appointment) or to engage temporary staff to whom no expectancy of continuous service can or should be given (the Fixed-term and the Indefinite appointment).

(a) The Probationary appointment will be given to individuals under fifty years of age at the time of recruitment when the Secretary-General intends that the appointee, if he proves that he has the required qualifications should receiv a Permanent or Regular appointment. The letter of appointment in each case will

specify that the appointment may lead to a career in the Secretariat. Such appointments will be governed by the Staff Regulations applicable to temporary appointments not for a fixed term. Staff members, while serving on Probationary appointments, will not as a rule be eligible for promotion.

(b) The Regular appointment will be given staff members in the first two salary levels of the General Service category and to manual and skilled trades personnel, after they have served a minimum of two years in Probationary appointments. The Regular appointment will be for an indefinite period which may last until retirement age. The conditions of employment under a Regular appointment will be, in many respects, similar to those of the present temporary appointment not for a fixed term; the security of tenure will be, however, emphasized consistent with the Staff Regulations; the period of notice will be increased to two months; and the indemnities in case of termination will be those provided in the Staff Regulations for temporary appointments not for a fixed term.

(c) The Fixed-term appointment is one which expires automatically on a date specified in the letter of appointment. Such appointments will be given for periods not to exceed five years to individuals recruited for service of prescribed duration, including persons seconded by or on leave from national governments and institutions for service with the Secretariat. While a Fixed-Term appointment may be renewed by the Secretary-General in the interest of the service, the letter of appointment will clearly specify that the appointment does not carry any expectancy of renewal, or of conversion to any other type of appointment.

(d) The Indefinite appointment will be given only to:

(i) Individuals specifically recruited for field or mission service who do not qualify for Fixed-term or Probationary appointment; and

(ii) Those recruited subject to a waiver of medical requirements and who are not given a Fixed-term appointment.

The letter of appointment will clearly specify that the appointment does not carry expectancy for any other type of appointment. The Indefinite appointment will be governed by the Staff Regulations applicable to temporary appointments not for a Fixed-term. Unless an over-riding interest of the United Nations requires it, persons recruited hereafter on Indefinite appointments will not be retained in the service for more than five years.

101. An Appointment and Promotion Board composed of senior officials will be appointed by the Secretary-General. The Board will make recommendations for all appointments of an expected duration of more than one year, with the exception of mission and technical assistance experts appointments, and will consider all proposals for promotion. The Appointment and Promotion Board will be guided by the necessity of securing the highest standards of efficiency, competence and integrity. In filling vacancies, it will also pay due regard to the importance of assuring in the staff as wide a geographical distribution as possible. Provided their qualifications are equal, the Appointment and Promotion Board will normally give preference:

(i) To those already in the Secretariat, and

(ii) To staff members of other international organizations brought into relationship with the United Nations.

102. A Personnel Selection and Review Board, appointed by the Secretary-General, will be composed of the following: a chairman; three members appointed from among senior officials of the Secretariat; and one member appointed from among staff members nominated by the Staff Council. The functions of the Board will be to conduct the review of staff members who become eligible for Permanent or Regular appointment; and to review every five years staff members holding Permanent or Regular appointments and to advise the Secretary-General whether, in view of his attitude as a member of the Secretariat and his performance during that period as a whole, the staff member has maintained the standards of efficiency, competence and integrity prescribed by the Charter.

103. The Secretary-General expects to implement these plans in January 1954 so that the Personnel Selection and Review Board may start at an early date the normal and continuing review of staff members in probationary status appointed after 1 January 1951, as soon as they become eligible for consideration for Permanent or Regular appointments.

104. It is the Secretary-General's intention to make every effort towards the fullest possible utilization of the present staff. As already announced, he is now studying possibilities for the re-organization of the Secretariat. At the same time he wishes as far as possible to increase the number of internal transfers

and re-assignments with the object of taking the best advantage of the experience of staff members gained during their service in the Secretariat, and of giving some of them a chance to prove their abilities in different types of work, increasing thus their usefulness to the Organization as a whole. This approach should become a practical means of fostering the versatility of the staff, the need for which has been stressed so often.

105. As a futher step to encourage versatility and flexibility, the Secretary-General plans to continue and perhaps expand the facilities for in-service training. In view of the peculiar tasks and methods of work of an international organization, in-service training can be expected to play in the Secretariat even a more important role than in national administrations.

Chapter III. Special Categories of Staff

106. The Staff Regulations contain a declaration on their scope and purpose which reads as follows:

> "The Staff Regulations embody the fundamental conditions on service and the basic rights, duties and obligations of the United Nations Secretariat. They represent the broad principles of personnel policy for the staffing and administration of the Secretariat. The Secretary-General, as the Chief Administrative Officer, shall provide and enforce such Staff Rules consistent with these principles as he considers necessary."

107. It seems evident that the broad principles of the Regulations are meant to be universal and to apply to all members of the staff, irrespective of the type of appointment under which they serve and of the type of activity for which they have been recruited. It is, however, the understanding of the Secretary-General that a few detailed and specific Regulations, as for instance, those relating to the eligibility for children's allowance, education grant, termination indemnity and repatriation grant, are only fully applicable to staff appointed for continuous and established service. Therefore, where the circumstances warranted it, and particularly in the case of staff appointed for special service of a non-continuous or purely local character, the Secretary-General has on occasions prescribed conditions of employment which modified to some extent the specific stipulations of those detailed Regulations. This necessary latitude in interpreting the applicability of the Staff Regulations has proved to be of particular practical value in setting the conditions of employment in such subsidiary organs created by the General Assembly as the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the United Nations Korean Reconstruction Agency, the Office of the High Commissioner for Refugees, and also for the appointment of experts specifically recruited to serve the Expanded Programme of Technical Assistance.

108. Subject to the agreement of the General Assembly, the Secretary-General intends to continue to avail himself of a reasonable latitude of interpretation of the applicability of the Staff Regulations, as indicated above, in all cases where it is necessary to appoint staff under conditions which do not warrant the full application of provisions obviously devised to meet specifically the needs of an international career service.

Chapter IV. The United States Immigration and Nationality Act of 24 December 1952

109. On 24 December 1952, there came into force in the United States a new Immigration and Nationality Act which contains provisions of immediate relevance to staff members of the United Nations. Under this Act, the United States authorities will adjust to non-immigrant status any non-United States citizen in permanent residence (immigrant) visa status who has an occupational status which would entitle him to a diplomatic or international organization visa (G-4 visa). The United States Attorney General will cancel the record of such person's admission for permanent residence, and his immigrant status will therefore be terminated. The adjustment of status which is thus required is made inapplicable by the Act, however, if the individual files with the United States Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of his having an occupational status entitling him to the non-immigrant status.

110. According to regulations issued by the United States Attorney General, no United Nations staff member will have his residential status changed to G-4 visa status until he has received formal notice in writing from the United States authorities. The staff member will then have ten days from the receipt of that notice in which to execute the waiver of his privileges and immunities. Some staff members holding permanent residence visa are faced with the decision before the time of the general notification, for example, if they apply for a re-entry permit before proceeding on travel outside the United States.

111. An opinion by the Attorney General of the United States on the effect of these waivers is appended as annex III to the present report. According to this opinion, a United Nations staff member who signs the waiver can enjoy, under United States law, the same privileges and exemptions as are available to a United States citizen employed by the United Nations, but cannot assert privileges not available to a United States citizen. In illustration, the staff member would remain immune from suit and legal process in relation to his official United Nations functions, but he would become liable to United States income taxation on his income derived from the United Nations.

112. Following receipt of the text of the United States Act, the regulations adopted by the United States authorities in its implementation, and the opinion of the United States Attorney General, the Secretary-General issued a circular to the staff (ST/AFS/SER.A/214, dated 26 June 1953) in which he said in part:

> "As far as the United Nations is concerned, the signature of the waiver referred to in the United States legislation may have consequences which will have to be carefully studied and may call for special rulings by the General Assembly or the Secretary-General. In the meantime, the Secretary-General, who has exclusive authority to waive privileges and immunities enjoyed by United Nations staff members, is prepared to consider the request of any staff member for authorization of his signature of the waiver; with the understanding that this waiver does not constitute a limitation of the immunities related to official acts of the staff member."

113. In the same circular, the Secretary-General made clear to the staff the policy he intended to follow on a few points of immediate practical importance, as described in the paragraphs below. At the same time, the Secretary-General instructed the staff to (a) request in writing his permission before they sign the waiver and to notify him of any subsequent changes in their visa status; (b) notify him in writing if they decide to change to G-4 visa status; (c) notify him in writing of their intention to acquire permanent residence status in the United States before they acquire such status, and to obtain the Secretary-General's authorization before signing any waiver of personal immunity and privileges; and (d) to notify the Secretary-General in writing of intention to change nationality before they complete the acquisition of a new nationality.

(i) Financial implications

114. In approximate figures, of 3,356 staff members at Headquarters, 1,755 are not citizens of the United States; 461 were, on 1 October 1953, in permanent residence status. Assuming that all these staff members elect to retain their permanent residence status in the United States, the amount of income taxation that would be reimbursable under the General Assembly's present instructions is estimated to be roughly $360,000 for the first full taxation year.

115. Of these 461 staff members, 231 are at present entitled to the benefits and entitlements associated with international recruitment, of which home leave is the most considerable, amounting to an estimated annual cost of $280,000 per annum. Costs of repatriation grant, education grant, and non-residence allowance are less, but of some importance.

116. Some 178 of these staff members are counted for the purpose of geographical distribution of the staff, in accordance with the formula approved by the General Assembly in 1947. The remainder of staff members entitled to the benefits of international recruitment are individual staff members in the General Service or Field Service categories originally recruited from outside the area of the Headquarters.

(ii) Geographical distribution

117. While the financial consequences are important, there may also be other implications in the case of staff members whose nationality was an important feature of their selection for employment with the United Nations. If such staff members elect to become permanent residents of another country, there may be an implication of an intention not to maintain ties with the country of their nationality. A question may, therefore, arise with regard to the application of the principle of geographical distribution.

(iii) Proposed policy

118. Confident that they represent a reasonable and equitable solution of the problems created by the application to staff members of the United Nations of the relevant provisions of the new United States Immigration and Nationality Act, the Secretary-General requests the General Assembly to approve his proposals, as described below and as announced to the staff in his Information Circular:

(a) The Secretary-General recommends that the General Assembly authorize the reimbursement of United States taxation levied on income derived from the Organization in respect of staff members who elect to remain in permanent residence status.

(b) As a corollary to this authorization, the Secretary-General would provide through amendments in his Staff Rules, that staff members who are not citizens of the United States, but who by signing the waiver confirm their permanent residence status in the United States, would:

(i) Lose any eligibility for home leave. As a transitional measure, however, provided the staff members would otherwise have been eligible for home leave during 1953 or 1954, the staff members would be permitted to take one home leave during the year in which it would have fallen due. On 31 December 1954, entitlement to start on such a home leave would cease.

(ii) Lose any entitlement to payment of non-resident's allowance from the date on which the staff rules were changed or from the end of the month in which they signed the waiver, whichever was later;

(iii) Lose any entitlement to education grant after the completion of the 1953-1954 academic year. Such staff members would retain eligibility for one-way travel between the home country and the Headquarters on the completion of the 1953-1954 academic year on behalf of the dependent child.

(iv) Lose any entitlement to repatriation grant.

(v) Lose any eligibility for return transportation for themselves or their dependents, and for removal of household effects, which is based on "place of home leave".

ANNEX I

INVESTIGATIONS BY AND INFORMATION RECEIVED FROM GOVERNMENTS REGARDING STAFF MEMBERS

A. Amendment to United States Executive Order relative to United States citizens employed or being considered for employment in the United Nations

1. In the last report of the Secretary-General on personnel policy, reference was made to Executive Order 10422 (18 F.R.239) of the President of the United States of America which prescribed procedures for making available to the Secretary-General certain information concerning United States citizens employed or being considered for employment by the Secretariat of the United Nations.6/ This Executive Order incorporated by reference certain procedures provided by Executive Order 9835 of 21 March 1947, which were applicable to loyalty investigations of employees of the United States Government, including review by the Loyalty Review Board and the Regional Loyalty Boards of the United States Civil Service Commission.

2. On 27 April 1953, Executive Order 9835 was revoked and a new programme governing security requirements for employees of the United States Government was established. The principal changes were: first, that the Heads of Departments or Agencies were made exclusively responsible for the review of information concerning their subordinates with the consequent discontinuance of the Loyalty Review Board and the Regional Loyalty Boards; and second, the applicable standard was changed from "whether or not there is a reasonable doubt as to loyalty" to "whether employment in the United States Government is clearly consistent with the interests of the national security" (Executive Order 10450, 18 F.R.2489).

6/ See report of the Secretary-General on personnel policy (A/2364), paragraphs 66-70 and annex V (Official Records of the General Assembly, Seventh Session, Annexes, agenda item 75, pages 11-12 and 37-38).

3. The revocation of Executive Order 9835, by discontinuing the Loyalty Review Board and the Regional Loyalty Boards, rendered it necessary to amend the Executive Order applicable to United States citizens employed or being considered for employment, by the Secretariat of the United Nations. Consequently, on 2 June 1953, the President of the United States issued Executive Order 10459 (18 F.R.3183) for this purpose. The consolidated text of the amended Executive Order is set forth in the appendix to the present annex.

4. The amended Executive Order establishes an International Organizations Employees Loyalty Board, having authority in cases referred to it to enquire into the loyalty to the Government of the United States of United States citizens employed, or considered for employment, by international organizations of which the United States is a member, and to make advisory determinations for transmission by the Secretary of State of the United States to the Executive Head of the international organization concerned.

5. The new Executive Order specifically states that the determinations of the Board under the standard provided in the Order are "advisory opinions" for the use of the Secretary-General in exercising his rights and duties with respect to the personnel of the United Nations as set out in the Charter and in regulations and decisions of the competent organs of the United Nations.

6. The amendment makes no change in the standard to be applied by the Board, which remains "whether or not, on all the evidence, there is a reasonable doubt as to the loyalty of a person involved to the Government of the United States". Likewise the procedures remain unchanged with two exceptions. The first difference is that the investigative procedure is simplified for those persons whose employment does not exceed ninety days. In these cases the preliminary investigation need include only reference to Government files; and the full field investigation to be conducted by the Federal Bureau of Investigation for internationally recruited staff is not required unless derogatory information is disclosed in the preliminary investigation. A second difference is that since a single board has replaced the regional Loyalty Boards and the Loyalty Review Board, the appeal from the Regional Boards to the latter has been eliminated.

B. Other investigations by United States authorities

7. Investigations conducted by a Special Federal Grand Jury of possible violations of United States Law by United States citizens, who were members of the Secretariat, have been described in a prior report.[7] A new Federal Grand Jury was empanelled to continue this investigation in January 1953. Under United States law, Grand Jury investigations are in private and to date the Grand Jury has made no indictment or presentment.

8. The report also described the investigations by the Internal Security Sub-Committee of the United States Senate Committee on the Judiciary concerning activities of United States citizens employed by the United Nations who were suspected of subversive activities.[8] Two United States citizens employed by the United Nations were questioned by the Sub-Committee on 19 February 1953.

9. In September 1953, following the judgments of the Administrative Tribunal, the Sub-Committee resumed its enquiry, this time with respect to those former staff members who had been awarded compensation by the Tribunal. The Chairman of the Sub-Committee, in opening public hearings, stated that the purpose of the investigation was to "determine why American citizens concerning whom there is evidence of Communist membership, and who invoked the privilege against self-incrimination when this Sub-Committee asked them about this evidence, after having been dismissed by the Secretary-General of the United Nations, can be reinstated and granted large money indemnities". He added that the Sub-Committee must determine to what extent those American citizens had deceived the officials of the international organizations and whether they had made full disclosure of their subversive activity to the Tribunal. He said it must also determine to what extent money appropriated by the Congress of the United States for the administration of the United Nations is being turned over to Communist agents particularly if those agents are citizens of the United States.

7/ See Official Records of the General Assembly, Seventh Session, Annexes, agenda item 75, pages 8-9, paragraphs 47-51.

8/ See Official Records of the General Assembly, Seventh Session, Annexes, agenda item 75, pages 10-11, paragraphs 52-61.

10. In September 1953, the Permanent Sub-Committee on Investigations of the United States Senate Committee on Government Operations also began an investigation of United States security with respect to the United Nations. Certain members of the United Nations Secretariat who were United States citizens or who had made application to become a United States citizen were heard in private session and a United States citizen employed by a delegation of another Member State was questioned in both private and public hearings. At the time of preparation of the present report, no Secretariat member had been called by the Sub-Committee in public hearing.

C. Information from governments

11. In view of the investigations referred to in the two preceding sections, it is to be expected that information concerning loyalty and other matters with respect to United States citizens employed in the Secretariat will be received from time to time by the Secretary-General.

12. At the time of preparation of the present report, the Secretary-General has not received any advisory opinions of the International Organizations Employees Loyalty Board under amended Executive Order 10422. In the course of investigations under Executive Order 10422, however, certain information was disclosed not relating to loyalty, such for example as convictions for crimes not involving subversive activities and allegations of other acts reflecting on the integrity or suitability of the employee. This information was forwarded by the United States Government to the Secretary-General. Such information, although not coming under Executive Order 10422, may be a basis for further investigation by the Secretary-General.

13. Since the date of the last report on personnel policy derogatory information concerning staff members has also been received in a few cases from other Members of the United Nations. This information, likewise, may serve as a basis for enquiry by the Secretary-General.

APPENDIX TO ANNEX I

UNITED STATES EXECUTIVE ORDER 10422 OF 9 JANUARY 1953, AS AMENDED BY EXECUTIVE ORDER 10459 OF 2 JUNE 1953

PRESCRIBING PROCEDURES FOR MAKING AVAILABLE TO THE SECRETARY-GENERAL OF THE UNITED NATIONS CERTAIN INFORMATION CONCERNING UNITED STATES CITIZENS EMPLOYED OR BEING CONSIDERED FOR EMPLOYMENT ON THE SECRETARIAT OF THE UNITED NATIONS

WHEREAS the United States has ratified the Charter of the United Nations and is participating in the activities of the United Nations by virtue of the ratification of the said Charter (59 Stat. 1031), and of the authority granted by the United Nations Participation Act of 1945 (59 Stat. 619); and

WHEREAS a Commission of Jurists has advised the Secretary-General of the United Nations that he should regard it as of the first importance to refrain from employing or to dismiss from employment on the Secretariat of the United Nation any United States citizen who he has reasonable grounds for believing has been, is, or is likely to be, engaged in espionage or subversive activities against the United States; and

WHEREAS the Commission of Jurists has also advised that the United States should make available to the Secretary-General information on which the Secretary General can make his determination as to whether reasonable grounds exist for believing that a United States citizen employed or being considered for employment on the Secretariat has been, is, or is likely to be, engaged in espionage or subversive activities against the United States; and

WHEREAS the Commission of Jurists has further advised that the independence of the Secretary-General and his sole responsibility to the General Assembly of the United Nations for the selection and retention of staff should be recognized by all Member Nations; and

WHEREAS the Secretary-General has declared his intention to use the conclusions and recommendations of the opinion of the said Commission of Jurists as the basis of his personnel policy in discharging the responsibilities entrusted to him by the Charter and staff regulations of the United Nations; and

WHEREAS in the participation by the United States in the activities of the United Nations it is in the interest of the United States that United States citizens who are employees of the Secretariat of the United Nations be persons of the highest integrity and not persons who have been, are, or are likely to be, engaged in espionage or subversive activities against the United States; and

WHEREAS it is in the interest of the United States to establish a procedure for the acquisition of information by investigation and for its transmission to the Secretary-General in order to assist the Secretary-General in the exercise of his responsibility for determining whether any United States citizen employed or being considered for employment on the Secretariat has been, is, or is likely to be, engaged in espionage or subversive activities against the United States; and

WHEREAS such procedure should afford opportunity for hearing to any United States citizen employed or being considered for employment on the Secretariat as to whom an investigation discloses derogatory information, so that the person affected may challenge the accuracy of any such information;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution, statutes, and treaties of the United States, including the Charter of the United Nations, and as President of the United States, it is hereby ordered as follows:

PART I - INVESTIGATION OF UNITED STATES CITIZENS EMPLOYED OR BEING CONSIDERED FOR EMPLOYMENT ON THE SECRETARIAT OF THE UNITED NATIONS

1. Upon the receipt by the Secretary of State from the Secretary-General of the United Nations of the name and of other necessary identifying data concerning each United States citizen employed or being considered for employment by the United Nations, there shall be an investigation of such person in accordance with the standard set forth in Part II of this order.

2. The Secretary of State shall forward the information received from the Secretary-General of the United Nations to the United States Civil Service Commission, and the Commission shall conduct a preliminary investigation.

3. The preliminary investigation conducted by the Civil Service Commissio shall be a full background investigation conforming to the investigative standard of the Civil Service Commission, and shall include reference to the following:

(a) Federal Bureau of Investigation files.

(b) Civil Service Commission files.

(c) Military and naval intelligence files as appropriate.

(d) The files of any other appropriate Government investigative or intelligence agency.

(e) The files of appropriate committees of the Congress.

(f) Local law-enforcement files at the place of residence and employment of the person, including municipal, county, and State law-enforcement files.

(g) Schools and colleges attended by the person.

(h) Former employers of the person.

(i) References given by the person.

(j) Any other appropriate source.

However, in the case of short-term employees whose employment does not exceed ninety days, such investigation need not include reference to sub-paragraph (f) through (j) of this paragraph.

4. Whenever information disclosed with respect to any person being investigated is derogatory, within the standard set forth in Part II of this order, the United States Civil Service Commission shall forward such information to the Federal Bureau of Investigation, and the Bureau shall conduct a full field investigation of such person: Provided, that in all cases involving a United States citizen employed or being considered for employment on the internationally recruited staff of the United Nations for a period exceeding 90 days, the investigation required by this Part shall be a full field investigation conducted by the Federal Bureau of Investigation.

5. Reports of full field investigations shall be forwarded through the ited States Civil Service Commission to the International Organizations Employees yalty Board, established by Part IV of this order and hereinafter referred to the Board. Whenever such a report contains derogatory information, under the ndard set forth in Part II of this order, there shall be made available to the rson in question the procedures of the Board provided or authorized by Part IV of is order (including the opportunity of a hearing) for inquiring into the loyalty the person as a United States citizen in accordance with the standard set forth n Part II of this order. The board shall transmit its determinations, as advisory opinions, together with the reasons therefor stated in as much detail as the Board determines that security considerations permit, to the Secretary of State for transmission to the Secretary-General of the United Nations for his use in exercising his rights and duties with respect to the personnel of the United Nations as set out in the Charter and in regulations and decisions of the competent organs of the United Nations.

6. At any stage during the investigation or Board proceeding, the Board may transmit to the Secretary of State, for forwarding to the Secretary-General, in as much detail as the Board determines that security considerations permit, the derogatory information disclosed by investigation. This shall be for the purpose of assisting the Secretary-General in determining whether or not he should take action with respect to the employee, or the person being considered for employment, prior to the completion of the procedures outlined in this order. The making available of any such information shall be without prejudice to the right of full hearing as provided for herein.

7. The Secretary of State shall notify the Secretary-General in all cases in which no derogatory information has been developed.

PART II - STANDARD

1. The standard to be used by the Board in making an advisory determination as provided for in paragraph 5 of Part I of this order with respect to a United States citizen who is an employee of, or is being considered for employment by, the United Nations, shall be whether or not on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States.

2. Activities and associations of a United States citizen who is an employee or being considered for employment by the United Nations which may be considered in connexion with the determination whether or not on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States may include one or more of the following:

(a) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs.

(b) Treason or sedition or advocacy thereof.

(c) Advocacy of revolution or force or violence to alter the constitutional form of government of the United States.

(d) Intentional, unauthorized disclosure to any person, under circumstances which may indicate disloyalty to the United States, of United States documents or United States information of a confidential or non-public character obtained by the person making the disclosure as a result of his previous employment by the Government of the United States or otherwise.

(e) Performing or attempting to perform his duties, or otherwise acting, while an employee of the United States Government during a previous period, so as to serve the interests of another government in preference to the interests of the United States.

(f) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, or group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocatin or approving the commission of acts of force or violence to deny other person their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

PART III - OTHER INTERNATIONAL ORGANIZATIONS

The provisions of Parts I and II of this order shall be applicable to United States citizens who are employees of, or are being considered for employment by, other public international organizations of which the United States Government is a member, by arrangement between the executive head of the international organization concerned and the Secretary of State or other Officer of the United States designated by the President.

PART IV - INTERNATIONAL ORGANIZATIONS EMPLOYEES LOYALTY BOARD

1. There is hereby established in the Civil Service Commission as International Organizations Employees Loyalty Board of not less than three impartial persons, the members of which shall be officers or employees of the Commission.

2. The Board shall have authority in cases referred to it under this order to inquire into the loyalty to the Government of the United States of United States citizens employed, or considered for employment, by international organizations of which the United States is a member, and to make advisory determinations in such cases, under the standard set forth in Part II of this order, for transmission by the Secretary of State to the executive heads of the international organizations coming under the arrangements made pursuant to Parts I and III of this order.

3. The Board shall make necessary rules and regulations, not inconsistent with the provisions of this order, for the execution of its functions. There shall be included in such rules and regulations provisions for furnishing each person whose case is considered by the Board:

(a) A written statement of the alleged derogatory information, in as much detail as security considerations permit.

(b) An opportunity to answer or comment upon the statement of alleged derogatory information, in writing, and to submit affidavits.

(c) An opportunity for hearing before the Board, or a panel thereof of at least three members, including the right of the person to be represented by counsel, to present witnesses and other evidence in his behalf, and to cross-examine witnesses offered in support of the derogatory information: Provided, that the Board shall conduct its hearings in such manner as to protect from disclosure information affecting the national security.

4. Based upon all the evidence before it, including such confidential information as it may have in its possession, the Board shall make its determinations in writing, and shall send to each person who is the subject thereof a copy. In cases in which hearing or other action is by a panel of three members, the action or determination of the panel shall constitute the action or determination of the Board, except that rules and regulations pursuant to paragraph 3 of this part shall be adopted by action of the Board as a whole.

5. Except as otherwise specified in this order, the Civil Service Commission shall provide the necessary investigative and other services required by the Board. All agencies of the executive branch of the Government are authorized and directed to cooperate with the Board, and, to the extent permitted by law, to furnish the Board such information and assistance as it may require in the performance of its functions.

6. All cases arising under this order which are pending before the Regional Loyalty Boards and the Loyalty Review Board of the Commission on the effective date of Executive Order No. 10450 of 27 April 1953, shall on that date be transferred to the Board.

ANNEX II

RECENT JUDGMENTS OF THE ADMINISTRATIVE TRIBUNAL

1. On 21 August 1953, the Administrative Tribunal rendered judgments (Judgments Nos. 18 - 38, AT/DEC/18 - 38) in the cases of twenty-one former United Nations staff members of United States nationality who contended that their discharge was illegal. Ten of these cases related to terminations of temporary appointments, ten to terminations of permanent appointments and one to the summary dismissal for serious misconduct of a staff member who held a permanent appointment.

2. The Tribunal sustained the termination action of the Secretary-General in nine cases involving temporary appointments; it decided in favour of the terminated staff members in one case concerning a temporary appointment and in ten cases concerning permanent appointments, ordering reinstatement in four cases and payment of compensation in lieu of reinstatement in seven others; and it decided, with respect to the summary dismissal, that the proceedings of the Joint Appeals Board in the case had not been valid, that consequently the submission of the case to the Administrative Tribunal was not regular, and that it should be re-submitted to the Joint Appeals Board.

3. In the exercise of his powers under article 9 of the Statute of the Administrative Tribunal, the Secretary-General decided not to reinstate the applicants in the four cases where reinstatement had been ordered by the Tribunal. Consequently, on 13 October 1953, the Tribunal handed down four judgments (Judgments Nos. 39 - 42, AT/DEC/38 - 42) determining the amounts of compensation in these four cases.

4. In all cases where the applicants were successful, the Tribunal awarded full salary up to the date of the judgment less the amount paid at termination in lieu of notice and less also the amount of termination indemnity; it also awarded

$300 for legal costs in each of these cases. In addition to these sums, it awarded the following amounts of compensation:

	$	
Judgment No. 29 -	6,000	
Judgment No. 31 -	40,000	
Judgment No. 33 -	20,000	
Judgment No. 34 -	27,500	
Judgment No. 35 -	12,000	
Judgment No. 36 -	7,000	
Judgment No. 37 -	10,000	plus pension rights
Judgment No. 39 -	16,000	
Judgment No. 40 -	20,000	
Judgment No. 41 -	7,500	
Judgment No. 42 -	4,730	
Total:	$ 170,730,	plus pension rights in one case.

5. While it is not appropriate to summarize the judgments of the Administrative Tribunal, it might be of assistance to the General Assembly to have before it the more important rulings made in those judgments. These rulings are contained in the following series of quotations.

A. Lack of competence of the Administrative Tribunal to determine validity under the Charter

"Under the terms of its Statute, the Tribunal is not competent to pass judgment on the validity, in relation to the Charter, of an agreement made between the Secretary-General and a Member State, whatever influence this agreement might actually have had on the decision taken in respect of the Applicant. It is part of the Tribunal's function, however, to consider whether the termination of the Applicant's employment is in conformity with the provisions of the Staff Regulations and the Staff Rules." 9/

B. Acquired rights of staff members

"Relations between staff members and the United Nations involve various elements and are consequently not solely contractual in nature ...

9/ Judgments Nos. 19 - 27, 29 - 37.

"In determining the legal position of staff members a distinction should be made between contractual elements and statutory elements,

"all matters being contractual which affect the personal status of each staff member, e.g. nature of his contract, salary, grade;

"all matters being statutory which affect in general the organization of the international civil service, and the need for its proper functioning, e.g. general rules that have no personal reference.

"While the contractual elements cannot be changed without the agreement of the two parties, the statutory elements on the other hand may always be changed at any time, through regulations established by the General Assembly, and these changes are binding on staff members. ...

"With regard to the case under consideration the Tribunal decides that a statutory element is involved and that in fact the question of the termination of temporary appointments is one of a general rule subject to amendment by the General Assembly and against which acquired rights cannot be invoked." 10/

C. Interpretation of Staff Regulation 9.1(c): discretionary power of the Secretary-General with respect to temporary appointments

"The discussions in the Fifth Committee show that the intention of the authors of the United Nations Staff Regulations approved by General Assembly resolution 590(VI) of 2 February 1952 was to invest the Secretary-General with discretionary powers in the termination of temporary appointments." 11/

"It is not a question of the opinion of the Tribunal but of the opinion of the Secretary-General." 12/

"Such discretionary powers must be exercised without improper motive so that there shall be no misuse of power, since any such misuse of power would call for the rescinding of the decision." 13/

D. Right of the staff to be members of political parties

"Staff Regulation 1.4 recognizes the right of staff members not to give up their political opinions. So that membership of any particular party would not, of itself, be a justification, in the absence of other cause, for dismissal...

10/ Judgments Nos. 19 - 25 and 27.

11/ Judgments Nos. 19 - 25 and 27.

12/ Judgments Nos. 21 and 24.

13/ Judgments Nos. 19, 20, 22, 23, 25 and 27.

"A decision based on such premises is a violation of an inalienable right of staff members and represents a misuse of power." 14/

E. Termination on the recommendation of the Walters Selection Committee

"The Tribunal finds that the grounds alleged for the termination of the Applicant's employment /a recommendation of the Walters Selection Committee/ appear to be such as might cause the Secretary-General to reach the opinion that the termination was in the interest of the United Nations under article 9.1(c) of the Staff Regulations." 15/

F. The Staff Regulations and Rules exhaustively list the grounds and conditions of termination of permanent appointments

"Under the regulations established by the General Assembly, permanent appointments cannot be terminated except in accordance with the Staff Regulations, which list exhaustively the grounds on which and the conditions in which an appointment may be terminated.

"Thus the Secretary-General can only act under a provision of the Staff Regulation. He must indicate the provision upon which he proposes to rely, and conform with the conditions and procedures laid down in the Staff Regulations. ...

"The Tribunal notes that the opinion of the three jurists - according to which the Secretary-General can go beyond the provisions of the Staff Regulations and terminate an appointment because of the contractual relationship between a staff member and the Secretary-General - disregards the nature of permanent contracts and the character of the regulations governing termination of employment established by the General Assembly under Article 101 of the Charter." 16/

G. Staff Regulation 9.1(a) on termination for unsatisfactory services does not apply to acts outside a staff member's professional duties

"The scope of the term 'unsatisfactory services' is to be determined by examination of the meaning given to the word 'services' in the Staff Regulations and Rules. It appears clearly that the word 'services' is used in the Staff Regulations and Rules solely to designate professional behavior within the Organization and not to cover all the obligations incumbent on a staff member. If it is admitted that the plea of constitutional privilege in respect of acts

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14/ Judgment No. 18.

15/ Judgment No. 26.

16/ Judgments Nos. 29 - 37.

ide a staff member's professional duties constitutes a breach of Staff lation 1.4, this fact cannot be considered as unsatisfactory services and ot fall within the purview of Staff Regulation 9.1." 17/

he breaches of the oath and of Staff Regulation 1.4 of which the Applicant leged to be guilty concern her behavior before an official organ of the ed States and relate to acts outside her professional duties. They concern private life, not her professional life. The obligations by which she may e bound in that respect relate to her conduct, not to her services." 18/

H. Staff Regulation 10.2 does not entitle the Secretary-General to dispense with the disciplinary procedure in these particular circumstances

"Misconduct punishable under Staff Regulation 10 could be either misconduct committed in the exercise of a staff member's professional duties or acts committed outside his professional activities but prohibited by provisions creating general obligations for staff members. ...

"Except in cases of agreement between the person concerned and the Administration, the disciplinary procedure should be dispensed with only in those cases where the misconduct is patent and where the interest of the service required immediate and final dismissal.

"In the present case, the Applicant invoked the privilege provided for in the constitution of his country. This step did not give rise to subsequent legal proceedings against the Applicant. This provision of the constitution may be properly invoked in various situations which, because of the complexity of the case law, cannot be summarized in a simple formula.

"The legal situation resulting from recourse to the Fifth Amendment was so obscure to the Secretary-General himself that he considered it desirable to seek clarification from a Commission of Jurists. Their conclusions were later discussed by the General Assembly, which reached no decision on them. Subsequently, these conclusions were partially set aside by the Secretary-General himself.

"The nature of serious misconduct appeared so disputable to the Secretary-General that he granted termination indemnities, which are expressly forbidden by the Staff Regulations (annex III) in cases of summary dismissal.

"Whatever view may be held as to the conduct of the Applicant, that conduct could not be described as serious misconduct, which alone under Staff Regulation 10.2 and the relevant Rules, justifies the Secretary-General in dismissing a staff member summarily without the safeguard afforded by the disciplinary procedure." 19/

17/ Judgments Nos. 29 - 37.

18/ Judgment No. 38.

19/ Judgments Nos. 29 - 37.

I. Power of the Secretary-General to establish special committees

"With regard to the procedure followed before the decision contested was taken, the Tribunal recognized that the Secretary-General may, if he deems fit, set up a special committee to clarify or advise him on a specific situation. Such a committee cannot, however, supersede the bodies set up by the Staff Regulations or Rules in cases where the intervention of such bodies is prescribed." 20/

J. Powers of the Tribunal with respect to the award of legal costs

"...The Tribunal...notes...that...Article 12 of its Rules authorizes applicants to be represented by counsel, and that accordingly costs may be incurred in submitting claims. It recalls that in a general statement of 18 December 1950 it pointed out that it could grant compensation for such costs if they are demonstrated to have been unavoidable, if they are reasonable in amount and if they exceed the normal expenses of litigation before the Tribunal. Recalling the case law of the League of Nations (Judgments Nos. 13 of 7 March 1934 and No. 24 of 26 February 1946) that 'il n'y a aucune raison pour déroger au principe général de droit que les dépens, sauf compensation, sont payés par la partie qui succombe', the Tribunal considers that it is competent to pronounce upon the costs." 21/

K. Principles governing the award of compensation

"The injury to be indemnified is that which results from the Secretary-General's refusal to reinstate. To determine the injury suffered, the Tribunal must consider to what extent the Applicant has expectation of continued employment, taking into account the terms and nature of the contract, the Staff Rules and Regulations and the facts pertaining to the situation and must evaluate the Applicant's chances of earning a livelihood after separation from the United Nations." 22/

"In view of the nature of the Applicant's contract, the Tribunal is of the opinion that the damage sustained by the Applicant in consequence of the Secretary-General's decision not to reinstate her cannot be precisely calculated. However, there can be no doubt that the Applicant suffered injury by reason of the Secretary-General's refusal of reinstatement. In evaluating this injury the Tribunal has to give consideration to the spirit of the Staff Rules and Regulations and to take fully into account the circumstances surrounding the case." 23/

20/ Judgment No. 38.

21/ Judgments Nos. 18, 29 - 38.

22/ Judgments Nos. 39 - 41, concerning refusal to reinstate former staff members who had held permanent appointments.

23/ Judgment No. 42, concerning refusal to reinstate a former staff member who had held a temporary appointment.

ANNEX III

OPINION OF UNITED STATES ATTORNEY GENERAL CONCERNING THE EFFECT OF WAIVERS UNDER SECTION 247 OF THE IMMIGRATION AND NATIONALITY ACT

Honorable John Foster Dulles,
Secretary of State,
Washington, D.C.

My dear Mr. Secretary:

This is in response to requests from the former Legal Adviser of your Department, Mr. Adrian S. Fisher, and from the present United States Representative to the United Nations, Ambassador Henry Cabot Lodge, Jr., asking for advice on the effect of waivers executed under section 247 of the Immigration and Nationality Act (66 St. 163, 218; P.L. 414, 82d Cong.).

Under section 247,[24] the Attorney General is required to adjust the status of an alien lawfully admitted for permanent residence, and thereby enjoying immigrant status, to that of a nonimmigrant in one of three specified classes

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24/ "Sec. 247. (a) The status of an alien lawfully admitted for permanent residence shall be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant under paragraph (15) (A), (15) (E), or (15) (G) of section 101 (a), if such alien had at the time of entry or subsequently acquires an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under such sections. As of the date of the Attorney General's order making such adjustment of status, the Attorney General shall cancel the record of the alien's admission for permanent residence, and the immigrant status of such alien shall thereby be terminated.

"(b) The adjustment of status required by subsection (a) shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a nonimmigrant status under paragraph (15) (A), (15) (E), or (15) (G) of section 101 (a)."

under section 101 (a) of the Act[25/] (roughly, accredited foreign government official, representative to or official of an international organization, or treaty trader), if the alien at the time of entry or thereafter acquires an occupational status which, were he seeking admission to the United States, would entitle him to a nonimmigrant status in one of the three classes. The Attorney General's order of adjustment terminates the alien's immigrant status.

25/ Section 101 (a) (15) of the Act defines the term "immigrant" to mean every alien except an alien who is within one of the classes of nonimmigrants described in subsections (A) to (I), inclusive, of that section; the three subsections referred to in section 247 read as follows:

"(A) (i) an ambassador, public minister, or career diplomat or consular officer who has been accredited by a foreign government recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the aliens immediate family;

"(ii) upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

"(iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

"(E) An alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national, and the spouse and children of any such alien if accompanying or following to join him; (i) solely to carry on substantial trade, principally between the United States and the foreign state of which he is a national; or (ii) solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital;

"(G) (i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemption, and immunities as an international organization under the International Organization Immunities Act (59 Stat. 669), accredited resident members of the staff of such representatives, and members of his or their immediate family;

(Note continued on page 3)

However, as provided in section 247 (b), the alien may avoid the loss of and retain his immigrant status, even though he is in one of the three classes of occupations, if he files with the Attorney General a written waiver of "all rights, privileges, exemptions, and immunities under any law or any executive order" which would otherwise accrue to him because of his occupational status. The Attorney General's regulations (Title 8, Part 247, effective 24 December 1952, 17 F.R. 11520) and the prescribed waiver (Form I-508) follow the quoted language of the statute; and the general question is, what are the rights, privileges, exemptions, and immunities surrendered by the immigrant alien who is in one of the three occupational classes and files a waiver? More specifically, as Ambassador Lodge's inquiry indicates, the chief concern, in the case of international organizations like the United Nations, is the effect of such waivers on the immunity of officials of the organization from legal process relating to acts performed by them in their official capacity, and the immunity of employees from income taxation on salaries paid by the organization.

Continued 25/

"(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

"(iii) an alien able to qualify under (i) and (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

"(iv) officers, or employees of such international organizations, and the members of their immediate families;

"(v) attendants, servants, and personal employees of any such representative, officers, or employee, and the members of the immediate families of such attendants, servants, and personal employees;"

The Congress in drafting section 247, and in the legislative history of the Immigration and Nationality Act, made no attempt to list the rights, privileges, exemptions, and immunities it had in mind. However, it did leave in the legislative history, an indication of the kind of rights and privileges it felt should be and would be waived by the immigrant alien employed by an international organization or a foreign diplomatic mission if he wished to retain both his immigrant status and his occupation. Based upon these references, we are in a position to offer some general advice on the effect of a waiver under section 247 (b), but must leave to future administrative or judicial rulings the precise effect of individual waivers in the variety of situations that may arise.

The bill which became the Immigration and Nationality Act (HR 5678, 82nd Cong.) was one of a number introduced as the result of an investigation and study of the entire immigration and naturalization system by the Senate Committee on the Judiciary, pursuant to Senate Resolution 137 of the 80th Congress. In its report on the investigation made to the 81st Congress, the Committee considered the status of the various classes of nonimmigrants and made five recommendations for changes in the immigration laws relating to accredited officials of foreign governments and representatives and officials of international organizations. These recommendations, it stated, would not "in its opinion jeopardize the conduction (sic) of the foreign relations of the United States." S. Report 1515, 81st Cong., page 523. The fifth of these recommendations read as follows:

"5. It is also recommended that provision be made for the adjustment of the status of a lawfully admitted permanent alien resident to that of a nonimmigrant admitted under the foreign government official or international organization category where the alien acquires an occupational status which would entitle him to such nonimmigrant status if he were applying for admission. The subcommittee recommends that since such persons acquire the wide privileges, exemptions, and immunities applicable to such aliens under our laws, they should not have the privilege of acquiring citizenship while in that occupational status." S. Report 1515, 81st Cong., page 525.

This recommendation might have been carried out by including a provision of law depriving of their immigrant status immigrants who acquired the privileges, exemptions, and immunities attaching to their occupations. Instead, the 82nd Congress took a less severe course and, in adopting section 247, gave immigrants in those occupations a choice of retaining privileges and surrendering immigrant status or of waiving privileges and keeping immigrant status.

In so doing, both the House and Senate Committees said: "In section 247, the Attorney General is required to adjust the status of immigrants who, subsequent to entry, acquire an occupational status which would entitle them to a nonimmigrant status ... This is intended to cover the situation where aliens who have entered as immigrants obtain employment with foreign diplomatic missions or international organizations or carry on the activities of treaty traders. Normally, they would be classified as nonimmigrants and because of the nature of their occupation, would be entitled to certain privileges, immunities and exemptions. The committee feels that it is undesirable to have such aliens continue in the status of lawful permanent residents and thereby become eligible for citizenship, when, because of their occupational status they are entitled to certain privileges, immunities, and exemptions which are inconsistent with an assumption of the responsibilities of citizenship under our laws. Such an adjustment shall not be required if the alien executes an effective waiver of all rights, privileges, exemptions, and immunities under any law or any Executive order which would otherwise accrue to him because of his occupational status." H. Report 1365, 82d Cong., pp. 63-64, S. Report 1137, 82d Cong., page 26. (Underscoring supplied).

In other words, the concern was that the assertion of certain privileges and exemptions by immigrants, who were employed by international organizations and foreign missions but who entered this country ostensibly with the idea of becoming citizens, was inconsistent with their proposed assumption of the responsibilities of citizenship, accordingly, such privileges should not be available to them. At the same time, the Congress disclaimed any intention of jeopardizing conduct of the foreign relations of the United States (supra, S. Report 1515, 81st Cong., page 523), which includes not jeopardizing the lawful activities of the international organizations and foreign missions located here, who normally engage Americans as well as aliens to conduct their business. In

some instances our laws, granting the necessary protections and privileges for these organizations and missions and their employees, draw no distinctions between American and alien employees, treating all alike; in other cases, the privileges granted are not available to Americans but only to the non-citizen employees. Hence it is clear that the Congress intended to deprive immigrant aliens employed in the international organizations and foreign missions of the privileges and exemptions resulting from the occupational status which would not be equally available to American citizens similarly situated. Conversely, it was not the intention of the Congress to require immigrants in these occupations to surrender privileges which American citizens similarly employed may assert. Obviously, if American citizens may lawfully exercise such privileges, the privileges would not appear to be inconsistent with the responsibilities of citizenship.

The Congress might have discriminated entirely against immigrants in favor of citizens, but it did not do so. On the contrary it sought, by the election offered under section 247, to place immigrants and citizens in the specified categories of employment on an equal footing by denying to immigrants special privileges, exemptions, and immunities not available to citizens similarly employed.

For example, section 116 (h) of the Internal Revenue Code, 26 U.S.C. 116 (h), exempts from federal income taxation the compensation of an employee of an international organization if the employee is not a citizen of the United States. Thus, under this section of the law, American citizen employees of international organizations do not enjoy exemption from federal income taxes. Hence, to the extent that the federal income tax exemptions of employees of an international organization rest upon section 116 (h) of the Internal Revenue Code, American citizen employees individually bear an obligation of citizenship (the payment of taxes) which immigrant employees, who are potential citizens, heretofore had no need to bear as individuals (disregarding any equalization of pay that the employer organizations may attempt to work out). Therefore, the tax exemptions under section 116 (h), claimable by an immigrant alien on one of the specified occupations, is an exemption which he waives when he files the waiver under section 247 of the Immigration and Nationality Act.

A converse example, in the matter of legal process, is section 7 (b) of the International Organizations Immunities Act, 22 U.S.C. 288d, under which officers and employees of international organizations shall be immue from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such officers or employees, subject to waiver of the immunity by the international organization. In the case of the United Nations, these privileges together with the others in the Act became effective pursuant to Executive Order No. 9698 of February 19, 1946, 11 F.R. 1809. No distinction is made in the statute between citizen and non-citizen employees of the international organization. Hence it would appear that an immigrant alien employee of the United Nations who properly claims the immunity from suit and legal process for official acts allowed under section 7 (b) asserts no greater privilege than would an American citizen employee similarly situated. Accordingly, the waiver of immunities under section 247 of the Immigration and Nationality Act by the immigrant employee of the United Nations would not appear to be a waiver of the immunity from suit and legal process to which section 7 (b) of the International Organizations Immunities Act entitles him.

Application of the foregoing principles in interpreting waivers under section 247, on a case-by-case basis as different situations arise, should accomplish the objectives laid down by the Congress. It should result in placing the employee of an international organization or foreign mission, who happens to be an immigrant, in a position of parity with his fellow American employee of the same organization by allowing the immigrant employee no greater privileges in connection with the employment than an American citizen similarly employed. In maintaining his immigrant status and preparing for American citizenship, the immigrant employee of the international organization or foreign mission will not be asserting privileges which he could not obtain and assert were he an American citizen in the same employment. Whatever rights remain and accrue to him as a result of the occupational status will be consistent with his "assumption of the responsibilities of citizenship under our laws."

Sincerely,

(Signed) Herbert BROWNELL

Attorney General

ANNEX IV

(i) Proposed amendment to Staff Regulation 9.1(a) regarding termination of permanent appointments

The following additional paragraph to Regulation 9.1(a) is proposed:

"The Secretary-General may also terminate the appointment of a staff member who holds a permanent appointment:

(i) If the conduct of the staff member indicates that the staff member does not meet the high standards of integrity required by Article 101, paragraph 3, of the Charter;

(ii) If he learns of facts, anterior to the appointment of the staff member and relevant to his administrative suitability, which, if they had been known when the staff member was appointed, should, under the standards established in the Charter, have precluded his appointment; or

(iii) If such action would be in the interest of the good administration of the Organization and in accordance with the standards of the Charter.

No termination under this paragraph shall take place until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Secretary-General."

(ii) Proposed amendment to Staff Regulation 1.4 relating to conduct reflecting on integrity, independence and impartiality

It is proposed to amend Staff Regulation 1.4 as follows:

"Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status."

(iii) Proposed amendment to Staff Regulation 1.7 relative to political activities on the part of staff members

It is proposed to replace the present Staff Regulation 1.7 with a new provision reading as follows:

"Unless otherwise authorized in accordance with Staff Rules issued by the Secretary-General, staff members shall not engage in any political activities outside the scope of their official duties, other than voting."

(iv) Proposed amendment to Staff Regulation 9.3

It is proposed to add to the present Staff Regulation 9.3 a new provision reading as follows:

"The Secretary-General may, when he considers it justified, pay to a staff member terminated under Staff Regulation 9.1(a) an indemnity payment twice that which would otherwise be payable under the Staff Regulations."
