



General Assembly

Distr.: General
1 October 2013

Original: English

Sixty-eighth session

Agenda items 139 and 147

Human resources management

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Seconded active-duty military and police personnel

Report of the Secretary-General

Summary

The present report is submitted in response to General Assembly resolution [67/287](#), in which the Assembly noted the difficulties related to the secondment of active-duty military and police officers against posts and requested the Secretary-General to report on proposals for its consideration.

The report provides a background on the difficulties encountered with the secondment of active-duty military and police personnel, and suggests possible ways forward to address the conflicts between the Staff Regulations and Staff Rules of the United Nations and national legislation in respect of those personnel.



I. Introduction

1. In his report entitled “overview of the financing of the United Nations peacekeeping operations: budget performance for the period from 1 July 2011 to 30 June 2012 and budget for the period from 1 July 2013 to 30 June 2014” ([A/67/723](#)), the Secretary-General brought to the attention of the General Assembly the conflict between the Staff Regulations and Rules of the United Nations and the national legislation of some Member States in respect of their active-duty military and police personnel seconded to the Secretariat.

2. Under the existing arrangements, seconded military and police personnel recruited against posts remain in active-duty status with their national Governments while at the same time serving as United Nations staff members appointed under a letter of appointment signed by them and by, or on behalf of, the Secretary-General. By remaining in active duty with both the national Government and the United Nations, and thereby being subject to the regulations and rules that govern their service with both entities, seconded personnel have a dual loyalty and/or existing legal obligations, which can give rise to a conflict of loyalty. In addition, the national legislation of some Member States prohibits Government personnel on secondment to an outside organization from accepting financial remuneration and benefits directly from that organization. In such cases, the seconded personnel come into conflict with staff regulation 1.2 (j), whereby “[n]o staff member shall accept any honour, decoration, favour, gift or remuneration from any Government”.

3. By its resolution [67/287](#), the General Assembly noted the difficulties related to the secondment of active-duty military and police personnel against posts and requested that the Secretary-General report to it during the main part of its sixty-eighth session on proposals for its consideration. In responding to that request, the present report suggests that such conflicts could be addressed by amending certain staff regulations and rules to take into account the unique situation of seconded active-duty military and police personnel.

II. Background

4. With the upsurge in the number, size and complexity of peacekeeping operations in the early 1990s, the Organization found itself in need of expertise in the planning and management of those operations. The General Assembly, in its resolution [47/71](#), encouraged the Secretary-General to invite Member States to provide qualified military and civilian personnel to assist the Secretariat in the planning and management of peacekeeping operations. These military and civilian personnel would be provided on a non-reimbursable basis.

Use of gratis personnel

5. In his report on personnel provided by Governments and other entities ([A/51/688](#) and Corr.1), submitted pursuant to General Assembly resolution [48/226C](#), the Secretary-General identified two types of gratis personnel. Type I gratis personnel have an established historical association with the Organization and include associate experts and junior professional officers for technical cooperation projects, technical cooperation experts on non-reimbursable loans and interns. Type II gratis personnel, which go beyond the traditional area of technical

cooperation, hold the status of “expert on mission” and are covered by article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations. Type II personnel include military officers in the Department of Peacekeeping Operations. In the report, the Secretary-General noted that the number and scope of the functions for type II gratis personnel had grown significantly in the preceding years, and in that light reviewed issues related to the status and accountability of such personnel, financial implications and related budgetary and financial issues, and implications for personnel policies and practices in the Secretariat.

6. In the report, the Secretary-General also noted four main concerns with regard to type II personnel. First, such personnel were increasingly performing core functions intended to be performed by staff members. Second, because type II personnel were not bound by staff regulations and rules, they were not prohibited from seeking or receiving instruction from any Government or from any other authority external to the Organization. Third, because not all Member States were in a position to make a contribution of type II personnel to the Organization, the category had a potentially negative impact on preserving the exclusively international character of the responsibilities of the Secretariat. Finally, because programme support costs were not charged to the donor Government, the Secretariat would necessarily have to use resources that had been provided for other purposes by the General Assembly.

7. By its resolution [51/243](#), therefore, the General Assembly decided that the use of type II gratis personnel would only be permitted to provide expertise for very specialized functions and/or to provide temporary and urgent assistance in the case of new and/or expanded mandates. Based on these limiting criteria, the Secretariat could therefore not enlist the services of gratis personnel to obtain the expertise of military personnel in the planning and management of peacekeeping operations. The Assembly expressed serious concern at the impact of that category of personnel on the geographical balance in some parts of the Secretariat and recognized that the use of gratis personnel, other than those performing supplementary activities, should be on an exceptional and temporary basis and for specialized functions only. The Assembly had previously reaffirmed, in its resolutions [47/226](#) and [51/226](#), that secondment from government service was consistent with Articles 100 and 101 of the Charter of the United Nations.

Secondment

8. In its resolution [52/248](#), the General Assembly approved the proposals of the Secretary-General for conversion of posts under the support account and the recruitment by secondment of serving military and police officers, where required. Such seconded active-duty military and police specialist officers would be engaged on staff contracts as United Nations staff members and would serve normally for two years, up to a maximum of four years. As such, they would be subject to the Staff Regulations and the Staff Rules as well as the policies and procedures of the Member State concerned. Staff regulation 4.1 specifically refers to staff seconded from government service: “[u]pon appointment, each staff member, including a staff member on secondment from government service, shall receive a letter of appointment” in accordance with the provisions of annex II of the Staff Regulations. The letter of appointment issued to staff members, including secondees, stipulates that the appointment would be subject to the Staff Regulations and Staff Rules. However, such conditions have posed challenges to the ability of the Organization to recruit and retain active-duty military and police officers on a broad geographical basis and have therefore had an impact on the ability of the Organization

to benefit from the array of military and police expertise required to effectively backstop United Nations peacekeeping operations.

9. Seconded active-duty military and police personnel serving on a United Nations appointment are selected through a competitive selection process. The process comprises the circulation of a note verbale to all Member States, in which they are invited to nominate active-duty officers against classified job openings. A tripartite agreement is concluded between the United Nations, the Government and the active-duty officer selected for service with the United Nations. Following the conclusion of the tripartite agreement, the seconded officer signs a letter of appointment with the United Nations. All active-duty officers affirm their loyalty to the United Nations.

10. As at 1 July 2013, there were a total of 336 seconded posts within peacekeeping. Of the 336 posts, 166 are at Headquarters, and 170 are in the field. Within the Department of Peacekeeping Operations at Headquarters, there are 146 posts, of which 106 are in the Office of Military Affairs and 40 are in the Office of the Rule of Law and Security Institutions. Within the Department of Field Support at Headquarters, there are six posts, of which two are in the Conduct and Discipline Unit and four are in the Logistics Support Division. The Policy, Evaluation and Training Division, a shared service for both Departments at Headquarters, has 14 posts.

Other mechanisms for engaging active-duty military and police personnel

11. In addition to active-duty secondees serving on a United Nations appointment, two other existing mechanisms are used to engage active-duty military and police personnel for United Nations service: troops and staff officers; and military advisers/observers, formed police units and police officers. Troops, staff officers and formed police units are subject to the provisions of memorandums of understanding with the respective troop- and/or police-contributing countries, and their salaries and allowances are paid by those countries. In accordance with General Assembly resolution [61/276](#), staff officers are paid a mission subsistence allowance for the duration of their tour of duty with the United Nations, and the cost of deployment/rotation of troops and staff officers is reimbursed by the United Nations.

12. Military advisers, observers and police officers are engaged as uniformed government-provided personnel, where the troop- and/or police-contributing country pays salary and allowances, and the United Nations pays travel and mission subsistence allowance or daily subsistence allowance, as appropriate. The services of those officers are engaged through notes verbales for mission-specific requirements. The officers usually serve for a one-year period, with the possibility of an exceptional extension for a maximum of up to two years for military personnel and three years for police personnel.

13. Since the two categories (troops and staff officers; and military advisers/observers, formed police units and police officers) do not hold a United Nations appointment and are not subject to the provisions of the Staff Regulations and Staff Rules, they do not fall within the same accountability frameworks as United Nations staff. They therefore may not perform core functions, supervise staff or commit United Nations resources or assets. Such personnel are therefore prohibited from performing the full range of functions envisaged by the General Assembly in its resolution [52/248](#) and in all subsequent resolutions related to the approval of resources under the support account for peacekeeping operations for the engagement of active-duty military and police officers on secondment from national service.

Conflict with national legislation

14. Unlike any other category of staff serving in the Secretariat, active-duty officers are in active service, both with their national Government and with the United Nations. As such, they are subject to the regulations and rules that govern their service with both entities. As highlighted in the report of the Secretary-General (A/67/723), a systemic issue was detected in 2012, through the financial disclosure programme, indicating that a number of serving seconded military and police officers were in receipt of remuneration and/or benefits from their national Governments, which is prohibited under staff regulation 1.2 (j), which states that “No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government”. Further inquiry revealed that a conflict existed between the provisions of staff regulation 1.2 (j) and the national legislation of a number of Member States, which requires that active-duty officers serving on international assignments or secondments with another entity continue to receive remuneration from the national Government and/or may prohibit the acceptance of financial remuneration and benefits directly from an outside organization while such personnel are serving on secondment.

15. In order better to understand the issues detected through the financial disclosure programme, the Department of Peacekeeping Operations/Department of Field Support conducted an informal survey of all active-duty military officers serving on United Nations letters of appointment at Headquarters and in the field. The survey revealed that approximately 3 per cent (5 of 177) at Headquarters, and approximately 40 per cent (64 of 154) in the field, had reported receiving various forms of remuneration and/or benefits from their national Government, namely, salary; expatriate allowances and payments; national Government-provided housing/housing subsidies; and/or contributions to pension schemes. The Secretariat has sought to resolve each situation as the issues have come to light, resulting in cases in which an individual officer has left the service of the United Nations.

III. Options for the secondment of active-duty military and police personnel

16. Pursuant to General Assembly resolution 67/287, a number of options aimed at addressing the difficulties encountered with the secondment of active-duty military and police personnel against posts were explored. The Secretariat considered that any viable option must:

- Enable all Member States to participate;
- Ensure that the same contractual modality applies to all seconded active-duty military and police personnel;
- Provide the necessary accountabilities to enable seconded active-duty military and police personnel to carry out the full functions of their position, including staff supervision and/or commitment of funds and/or resources;
- Ensure that seconded active-duty military and police personnel remain subject to the disciplinary authority of the Secretary-General;
- Not create a separate category of staff to whom different values and rules apply;
- Address the conflict between the provisions of the Staff Regulations and Staff Rules of the United Nations and the national legislation of certain Member States.

17. The option of engaging active-duty military and police personnel either as staff officers or as United Nations military observers and police officers was explored. However, the Secretariat did not consider the options to be feasible. In each case, the seconded personnel would not hold a United Nations letter of appointment and would therefore not be able to perform the full range of functions that might be required of the position, including responsibilities for executive direction, supervision of staff and commitment of funds and/or resources. The engagement of active-duty officers under such arrangements would also require a parallel command structure. Member States would be responsible for the payment of salaries and allowances of their seconded personnel in accordance with national legislation, with the United Nations paying travel costs and subsistence allowance. However, some Member States might not be in a position to contribute seconded personnel for positions at Headquarters under those arrangements. Furthermore, non-staff personnel are not subject to the disciplinary authority of the Secretary-General.

18. The option of creating a separate category of personnel for seconded military and police officers, with the status of officials, other than Secretariat officials, was also considered. However, such officials are not considered staff members of the United Nations and would thus not be able to perform the full range of functions required of the position, including staff supervision and/or commitment of funds and/or resources. Officials, other than Secretariat officials, are also not subject to the disciplinary authority of the Secretary-General.

Suggested option

19. In the light of the above, the Secretary-General considers that the current arrangement of appointing seconded active-duty military and police personnel on a fixed-term appointment under the Staff Regulations and Staff Rules is the most appropriate approach. It provides the necessary accountabilities to enable the seconded officers to carry out the full range of functions and ensures that all Member States can participate equally in contributing seconded officers. However, in order to address potential conflicts between the Staff Regulations and Staff Rules and national legislation, the Secretary-General suggests amending certain staff regulations and rules for active-duty seconded military and police personnel.

Staff regulation 1.1 (b) – written declaration

20. In order to address the potential conflict involving dual loyalty to both the national Government and the United Nations, the Secretary-General suggests that the written declaration to be signed by all seconded active-duty military and police personnel under staff regulation 1.1 (b) be amended and that an additional undertaking be included in order for such personnel to inform the United Nations of any conflict between the declaration and the oath or affirmation of office made with their national authorities and to offer to resign in the event that such conflict arises. The Secretary-General suggests that the additional declaration for seconded active-duty military and police personnel be set out in a revised staff regulation 1.1 (b) as follows:

Staff regulation 1.1

(b) Staff members shall make the following written declaration witnessed by the Secretary-General or his or her authorized representative:

“I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the

United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization.

“I also solemnly declare and promise to respect the obligations incumbent upon me as set out in the Staff Regulations and Rules.”

Military and police personnel on secondment from government service, who are appointed on posts specifically approved for active-duty military and police personnel, shall make an additional written declaration as follows:

“In the event of any conflict between the declaration made by me under the present staff regulation and the oath or affirmation of office made by me as a member of my national Government, I shall immediately inform the United Nations and offer to resign forthwith in order to fulfil my obligations under that oath or affirmation.”

21. Where a conflict does arise between the written declaration with the United Nations and an oath or affirmation made by a seconded officer to his or her national Government, and the seconded officer does not offer to submit his or her resignation, disciplinary proceedings would be initiated.

Staff regulation 1.2 (j) – honours, gifts or remuneration

22. All seconded active-duty military and police personnel appointed by the United Nations should be remunerated in accordance with the Staff Regulations and Staff Rules in order to ensure equal pay for work of equal value. In cases where the national legislation of seconded active-duty military and police personnel prohibits them from accepting financial remuneration and benefits from the Organization, or where national legislation requires that the officer continue to receive certain benefits from the Government such as pension contributions, the Secretary-General considers it most desirable for Member States to consider amending their national legislation in order to respect the exclusively international character of the responsibilities of United Nations staff, in accordance with Articles 100 to 102 of the Charter. If this is not feasible, an alternative could be to amend staff regulation 1.2 (j) and related staff rule 1.2 (k), in order to make an exception only for receipt of remuneration from a national Government that is required under national legislation, as follows:

Staff regulation 1.2

(j) No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government. **Military and police personnel on secondment from government service, who are appointed on posts specifically approved for active-duty military and police personnel, may be permitted to accept remuneration from their national Governments on terms and conditions specified by the Secretary-General in their letters of appointment.**¹

Staff rule 1.2

(k) No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government, **except as permitted by staff regulation 1.2 (j).**

¹ For classification purposes in the present report: this applies exclusively to military and police personnel on secondment from government service and does not apply to any other group of staff.

However, if refusal of an unanticipated honour, decoration, favour or gift from a Government would cause embarrassment to the Organization, the staff member may receive it on behalf of the Organization provided that it is reported and entrusted to the Secretary-General through established procedures.

23. During the onboarding process, seconded active-duty military and police personnel would be required to disclose whether their national legislation either prohibits them from receiving remuneration from the Organization or requires them to continue to accept certain remuneration while in active service on secondment with the Organization. A determination would then be made as to whether to allow a seconded officer to receive remuneration from his or her national Government. If the determination were allowed, under amended staff regulation 1.2 (j) and staff rule 1.2 (k), it would be reflected in the letter of appointment. Where national legislation prohibits the seconded officer from receiving remuneration from the Organization, the officer would be permitted to continue to be remunerated by his or her national Government, and the United Nations salary would be remitted to the national Government. Where national legislation does not prohibit seconded officers from accepting remuneration from the Organization but requires them to accept certain remuneration from the national Government, the officers would be required to disclose the remuneration and/or benefits payable by their national Government and explain the national legislation requiring that such payments be made. In such cases, the United Nations would pay the seconded officers in accordance with the Staff Regulations and Staff Rules and would make appropriate adjustments to their United Nations remuneration in order to provide equity of treatment for officers. Irrespective of such arrangements, all seconded officers would continue to be prohibited from accepting any honour, decoration, favour or gift from any Government. If, by virtue of his or her active-duty status with a national Government, a seconded officer has cause to be influenced in his or her actions, in particular any action which might reflect on his or her position as an international official responsible only to the Organization, the seconded officer has the obligation to make this known to the Organization at the first opportunity (Articles 100 and 101 of the Charter).

Staff rule 4.15 – central review bodies

24. As the nomination and selection process for seconded active-duty military and police personnel does not involve review by central review bodies, the Secretary-General suggests that staff rule 4.15 (g) on the functions of the central review bodies be amended, as follows, in order to clarify that the bodies do not advise on the appointment of active-duty military and police personnel:

Staff rule 4.15

(g) The central review bodies shall advise the Secretary-General on all appointments of one year or longer, except in the following cases:

- (i) Appointment of candidates having successfully passed a competitive examination, in accordance with staff rule 4.16;
- (ii) Appointment at the entry level or promotion within the General Service and related categories of candidates having successfully passed an entrance test or examination, under conditions defined by the Secretary-General;
- (iii) Appointment of military and police personnel on secondment from government service on posts specifically approved for active-duty military and police personnel.**

25. The appointment of active-duty military and police personnel on secondment from government service would be limited to service against a post earmarked for active-duty service and would be limited to the period of service specified in paragraph 12 above.

IV. Action to be taken by the General Assembly

26. Should the General Assembly endorse the suggested approach set out in section III above, the Assembly would need to amend staff regulations 1.1 (b) and 1.2 (j), as reflected in paragraphs 20 and 22 of the present report. The Secretariat would then take the required steps to make the amendments to the Staff Rules, as reflected in paragraphs 22 and 24 of the present report, which would be reported by the Secretary-General to the Assembly at its sixty-ninth session.
