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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

In its resolution [74/254 B](#), the General Assembly requested the Secretary-General to increase outreach and engagement with Member States and explore all viable options to resolve issues involving the engagement of seconded active-duty military and police personnel, in particular the conflicts between national legislation and the Staff Regulations and Rules of the United Nations. The Assembly requested the Secretary-General to report on the development of the matter and present his proposals to address the conflicts to the Assembly at the first part of its resumed seventy-fifth session.

The present report, submitted in response to that request, provides a description of the outcome of the Secretariat's latest efforts to engage with Member States on the issue and a set of proposals to address the conflicts.



I. Overview

1. A conflict between the Staff Regulations and Rules of the United Nations and the national legislation or practices of some Member States with respect to their active-duty military and police personnel seconded to the Secretariat was first brought to the attention of the General Assembly by the Secretary-General 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). In the report, a conflict was highlighted between staff regulation 1.2 (j), under which staff members are prohibited from accepting any honour, decoration, favour, gift or remuneration from any Government, and the national legislation of several Member States, under which government personnel on secondment to an outside organization such as the United Nations are prohibited from accepting financial remuneration and benefits directly from that organization. A survey conducted at the time of the report revealed that, in some cases, national legislation may not be the only reason for additional remuneration and/or benefits. In addition, it appears that certain countries may have inconsistent practices with regard to their seconded officers. Remuneration and benefits can take various forms, from the salary to expatriate allowances and payments.

2. In its resolution 67/287, the General Assembly noted the difficulties related to reconciling the national legislation of some countries with the Staff Regulations and Rules and requested the Secretary-General to report during the main part of its sixty-eighth session on proposals to resolve the conflict. As an exceptional measure, the Assembly agreed to waive the requirement for seconded active-duty military and police personnel to comply with staff regulation 1.2 (j) through 31 December 2013 in order to facilitate the full participation of all Member States in seconding active-duty officers.

3. The Secretary-General, in his report on seconded active-duty military and police personnel (A/68/495), reconfirmed the conflict and pointed out that, by remaining in active duty with both their Governments and the United Nations, and thereby being subject to the regulations and rules that governed their service with both entities, seconded personnel had a dual loyalty and/or existing legal obligations, which can give rise to a financial conflict and a conflict of loyalty. In an effort to address the issue, the Secretary-General proposed amendments to staff regulation 1.1 (b) on the written declaration, as well as staff regulation 1.2 (j) and staff rule 1.2 (l) on honours, decoration, favour, gifts or remuneration.

4. The General Assembly, in its resolution 68/252, did not support the recommendation of the Secretary-General and endorsed the recommendation of the Advisory Committee on Administrative and Budgetary Questions to extend the exceptional measures authorized in resolution 67/287 for a further three years, until 31 December 2016, so that the Secretary-General could intensify his engagement with Member States with a view to identifying alternative solutions for addressing the conflicts. It requested the Secretary-General to submit to the Assembly a report regarding developments on this issue and a new proposal for consideration at its seventieth session.

5. In the report of the Secretary-General on seconded active-duty military and police personnel (A/71/257), efforts made to identify potential conflicts between national legislation or practices and the Staff Regulations and Rules were identified. The report outlined the difficulties encountered in fully capturing the scope of the problem because of insufficient information received from Member States. It acknowledged that additional effort and time was required to develop a new proposal

and requested the General Assembly to consider an extension of the application of the exceptional measure authorized in its resolutions [67/287](#) and [68/252](#).

6. The General Assembly, in its resolution [71/263](#), endorsed the recommendation of the Advisory Committee on Administrative and Budgetary Questions that the application of the exceptional measure be extended for up to three years through 31 December 2019, in order to allow sufficient time for more productive and intensified engagement with Member States.

7. The Secretary-General, in his note on seconded active-duty military and police personnel ([A/74/546](#)), proposed extending the application of the exceptional measures by one additional year, until 31 December 2020, to allow the Secretariat to continue its efforts to obtain information from Member States on potential conflicts, as well as on remuneration and benefits provided to seconded active-duty officers.

8. In its resolution [74/254](#), the General Assembly authorized the Secretary-General to extend the exceptional measure until 30 June 2020 with a view to identifying solutions to the conflicts.

9. The report of the Secretary-General on seconded active-duty military and police personnel ([A/74/700](#)) provided a description of the outcome of the Secretariat's latest efforts to engage with Member States on the issue and a proposal for addressing the conflicts.

10. In its resolution [74/254](#) B, the General Assembly decided to authorize the Secretary-General to extend the exceptional measures until 31 July 2021 and requested the Secretary-General to increase outreach and engagement with Member States and to explore all viable options to resolve the issues.

11. The extension of the exceptional measure was required because the recommendations submitted by the Secretary-General to resolve the conflicts since 2013 did not meet the approval of the General Assembly. For ease of reference, those recommendations and previous ones of the Secretary-General, as well as recommendations and decisions of the Assembly, are presented in summary form in the annex to the present report.

II. Background of the programme

12. The need for active-duty military and police personnel expertise was identified with the upsurge in the number, size and complexity of peacekeeping operations in the early 1990s. 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. Those personnel would be provided on a non-reimbursable basis as type II gratis personnel.

13. Gratis personnel are those provided by Governments and other entities. There are two types of gratis personnel: type I, who have well-established legal status and functions and include associate experts, junior professional officers, technical cooperation experts on non-reimbursable loan and interns; and type II, who 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.

14. In his report on gratis personnel provided by Governments and other entities ([A/51/688](#) and [A/51/688/Corr.1](#)), the Secretary-General noted four main concerns with regard to type II gratis personnel. First, they were increasingly performing core functions intended to be performed by staff members. Second, given that type II gratis personnel were not bound by the Staff Regulations and Rules, they were not

prohibited from seeking or receiving instructions from any Government or other authority external to the Organization. Third, given that not all Member States were in a position to make a contribution of type II gratis personnel to the Organization, the category had a potentially negative impact on preserving the international character of the responsibilities of the Secretariat. Fourth, given that support costs for type II gratis personnel were not charged to the donor Government, the Secretariat had to use resources that had been provided for other purposes by the General Assembly.

15. By its resolution [51/243](#), the General Assembly decided that the use of type II gratis personnel would be permitted only to provide expertise for very specialized functions and/or to provide temporary and urgent assistance in the case of new and/or expanded mandates. On the basis of those limited 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.

16. As stated in the report of the Secretary-General on seconded active-duty military and police personnel ([A/68/495](#)), in its resolution [52/248](#), the General Assembly approved the proposals of the Secretary-General for the recruitment of seconded active-duty military and police personnel, who would be engaged on staff contracts as United Nations staff members and would serve normally for two years, for a maximum of four years. As such, they would be subject to both the Staff Regulations and Rules and the policies and procedures of the Member State concerned.

17. The recruitment of seconded active-duty military and police personnel addresses the need of the Secretariat to effectively and efficiently manage, direct and support peace operations. The programme enhances military and police oversight and guidance in complex and challenging missions, where military and police actions on the ground can have major political consequences and where the threat to United Nations military, police and civilian personnel is great. Seconded military and police personnel help to address challenges with the start-up and expansion of missions within the tight timelines established in Security Council mandates.

18. Since the inception of the programme, Member States have shown great interest in participating. On average, 65 Member States submit nominations for posts circulated during any military and police recruitment campaign, resulting in an average of 1,300 candidates per campaign.

19. As at 1 July 2020, there were 283 seconded posts within peacekeeping, 164 of which were at Headquarters and 119 of which were in the field. A total of 158 posts at Headquarters are in the Department of Peace Operations, including 104 in the Office of Military Affairs, 41 in the Office of the Rule of Law and Security Institutions (Police Division) and 13 in the Policy, Evaluation and Training Division. There are two such posts in the Conduct and Discipline Unit, Department of Management Strategy, Policy and Compliance, and four in the Medical Support Section, Department of Operational Support.

III. Engagement with Member States and seconded active-duty military and police officers

20. In an effort to identify areas of conflict, since 2012, the Secretariat has been engaging with Member States and seconded active-duty personnel through various outreach and engagement activities, including the following:

(a) Presentations to the Military and Police Advisers' Community on upcoming recruitment campaigns;

- (b) Presentations to the Special Committee on Peacekeeping Operations;
- (c) Notes verbales and other correspondence addressed to Member States during military and police recruitment campaigns;
- (d) Engagement with Member States through meetings, briefings, workshops and seminars of troop- and police-contributing countries (meetings of the Military and Police Advisers' Community and the Special Committee on Peacekeeping Operations);
- (e) Surveying to Member States and seconded active-duty military and police officers.

21. In September 2020, the Secretariat conducted its most recent survey of Member States and seconded active-duty military and police personnel at Headquarters and in field missions, in line with the recommendations of the General Assembly.

22. Of the full membership of the United Nations of 193 Member States, 69 responded to the survey. A total of 45 of them had active-duty military or police personnel currently serving on secondment to the United Nations. A total of 27 of the 45 Member States that had seconded active-duty personnel with the United Nations responded that they provided some sort of remuneration or benefits. Of the remaining 24 Member States that responded but did not currently have seconded active-duty officers with the United Nations, 8 indicated that they would provide benefits and allowances if their nationals were recruited as seconded active-duty officers.

23. In all, 232 seconded active-duty officers serving at Headquarters and in the field were requested to complete the survey on payments, benefits and/or allowances that they received from their Government. Of that number, 219 responded to the survey, with 77 confirming that they received remuneration or benefits from their Government and the remaining 142 indicating that they received none.

IV. Options for consideration

24. In responding to the requests outlined in General Assembly resolution [74/254 B](#), the Secretary-General determined that any viable option to address the challenges related to the identified conflicts should be guided by the following principles, based on Articles 100 and 101 of the Charter of the United Nations and Assembly resolution [51/243](#):

- (a) To enable all Member States to participate;
- (b) To ensure that the same contractual modality is applied to all seconded active-duty military and police personnel;
- (c) To assign the accountabilities necessary to enable seconded active-duty military and police personnel to carry out the full functions of their positions, including staff supervision and the commitment of funds and/or resources;
- (d) To ensure that seconded active-duty military and police personnel remain subject to the disciplinary authority of the Secretary-General;
- (e) To avoid the creation of a separate category of staff to whom different values and rules apply.

25. Previously, the Secretary-General had proposed amendments to staff regulation 1.2 (j) and staff rule 1.2 (l) on honours, gifts or remuneration. However, such amendments would create the undesirable situation of having seconded personnel working under different conditions of service and may result in inequalities of payments.

26. A new option would be to engage the active-duty military and police personnel as non-staff so that they would not be in violation of the Staff Regulations and Rules. However, that option would not uphold the principles outlined in paragraph 24 (c) and (e) above, given that non-staff personnel may not perform representational functions or supervise staff members.

27. Another new option for consideration would be the strict enforcement of the Staff Regulations and Rules. The Secretariat would not hire active-duty military and police personnel from any Member State that declared that its national legislation conflicted with the Staff Regulations and Rules. If adopted, that option would prevent the Secretariat from hiring active-duty military and police personnel from Member States with legislation or practices that were in conflict. While the option would ensure strict compliance with the Staff Regulations and Rules, it would not uphold the principle outlined in paragraph 24 (a) above, given that the participation of some Member States would be prevented.

28. An additional option would be for the Secretariat to cease to hire active-duty personnel, recruiting instead non-active military and police personnel with relevant experience. Such recruitment could be carried out through the staff selection system and would require any active-duty military and police personnel to resign from their government functions. That option would ensure strict compliance with the Staff Regulations and Rules and would allow the participation of applicants from all Member States. However, the option would run counter to the objective of engaging active-duty personnel in order to secure the most current military and police expertise for the planning and management of peacekeeping operations. In addition, it could be difficult to attract candidates, given that they would need to leave their national military or police careers to join the Secretariat. Furthermore, because the option would involve recruitment under the staff selection system without a time limitation, the Organization would be deprived of the fresh experience that comes from the rotation of active-duty officers.

29. The Secretary-General would like the General Assembly to reconsider the option presented at its seventy-fourth session: to identify remuneration or benefits provided by Member States to seconded personnel and to implement an agreement to amend the conditions of employment to ensure that there is no duplication of remuneration or benefits between Member States and the United Nations. That option would be operationalized in the following stages:

(a) Upon submission of nominations during a military/police recruitment campaign, Member States would be requested to declare any remuneration or benefits that they provided to active-duty personnel who were on secondment with the United Nations. That information would be used to prepare an agreement between the Member State and the Organization, which would be required before an offer of appointment was sent to the selected national. Specified in the agreement would be the remuneration or benefits that the Member State planned to pay to the seconded personnel and adjustments to the United Nations conditions of service that the Secretariat would accordingly make;

(b) Before issuance of an offer of appointment, the offer would be conditional on the existence of an agreement between the Member State and the Organization in the case of Member States that provided remuneration or benefits to personnel while in service with the United Nations;

(c) Before issuance of a letter of appointment, reference would be made in the letter to the agreement between the Member State and the Organization to ensure that there were no duplication of remuneration or benefits. The option ensures the full participation of all Member States, allows the Secretariat to provide fair and

transparent remuneration and benefits to all staff and embraces all of the principles above.

30. In its resolution 74/254 B, the General Assembly authorized the Secretary-General to extend the exceptional measures until 31 July 2021. The exceptional measures approved by the Assembly have enabled the Secretariat to address the immediate and specific challenges posed by the national legislation or practices of some Member States. In the event that there is no decision on the proposals and no further extension of the exceptional measures, the programme would face the following consequences:

(a) Currently serving seconded active-duty officers from Member States with national legislation or practices in conflict with the Staff Regulations and Rules would be in breach of those regulations and rules after the expiration date set by the General Assembly for the exceptional measure. The conflict may amount to misconduct and lead to disciplinary measures;

(b) The Secretariat would not be in a position to recruit seconded active-duty military and police officers from Member States with identified conflicts. That would limit the desired recruitment from as wide a geographical basis as possible and would affect the Secretariat's ability to execute its mandate for military and police activities both at Headquarters and in the field.

V. Actions to be taken by the General Assembly

31. The General Assembly is requested:

(a) To consider the options presented and decide on a solution;

(b) To approve the continuation of the exceptional measure already approved in resolution 67/287 for currently serving seconded personnel until the end of their appointment as a transitional measure pending the implementation of an adopted solution.

Annex

Previous recommendations of the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions and recommendations and decisions of the General Assembly

<i>Report or resolution</i>	<i>Outcome</i>
<p>A/67/723</p> <p>Report of the Secretary-General 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”</p>	<p>Highlights the financial disclosure programme, through which the following was revealed:</p> <ul style="list-style-type: none"> • Some staff members were receiving remuneration from their Governments, presenting a conflict with the Staff Regulations and Rules of the United Nations • The legislation of some Member States prohibited their government personnel on secondment to an outside organization from accepting financial remuneration and benefits directly from that organization
<p>Resolution 67/287</p>	<p>The General Assembly requested the Secretary-General to report during the main part of its sixty-eighth session on proposals for its consideration, and, as an exceptional measure, agreed to waive the requirement for seconded active-duty military and police personnel to comply with staff regulation 1.2 (j) through 31 December 2013 in order to facilitate the full participation of all Member States in seconding active-duty officers.</p>
<p>A/68/495</p> <p>Report of the Secretary-General on seconded active-duty military and police personnel</p>	<p>The Secretary-General proposed amendments to staff regulation 1.1 (b) on the written declaration, as well as staff regulation 1.2 (j) and staff rule 1.2 (l) on honours, gifts or remuneration, in an effort to address potential conflicts between national legislation and the Staff Regulations and Rules. The Secretary-General suggested amendments to staff rule 4.15 on the central review bodies, as well as changes to the onboarding process.</p>
<p>A/68/615</p> <p>Report of the Advisory Committee on Administrative and Budgetary Questions on seconded active-duty military and police personnel</p>	<p>The Committee was of the view that the implementation of the suggested amendments to Staff Regulations and Rules might prove cumbersome and present operational challenges. The Committee pointed out that the suggested approach would not address the situation of seconded active-duty military and police personnel from Member States with national legislation that prohibited them from accepting remuneration from the Organization and that, at the same time, provided a level of remuneration that was not compatible with the cost of living at the duty stations at which</p>

*Report or resolution**Outcome*Resolution [68/252](#)

personnel were located. The Committee indicated that the suggested approach would not rule out overpayment from the United Nations to Member States or ensure equal pay for work of equal value.

The General Assembly requested the Secretary-General to extend the exceptional measure for a further three years, through December 2016, and to intensify his engagement with Member States with a view to identifying alternative solutions for addressing the conflicts between national legislation and the Staff Regulations and Rules regarding the secondment of active-duty military and police personnel.

[A/71/257](#)

Report of the Secretary-General on seconded active-duty military and police personnel

The following proposals from the sixty-eighth session were reinforced:

- Amendment of Staff Regulations and Rules
- More detailed suggestions added on onboarding, including adjusting letter of appointment and benefits if received by staff from their Governments
- Revision of Secretary-General's bulletin on the central review bodies

Owing to a lack of information from Member States, it was not possible to develop a new proposal for addressing the conflicts. The Secretary-General requested the General Assembly to consider an extension of the application of the exceptional measures authorized to facilitate the submission of the required information and, in the interim, to enable the full participation of all Member States in seconding active-duty officers.

[A/71/557](#)

Report of the Advisory Committee on Administrative and Budgetary Questions on human resources management

The Committee maintained its recommendation that the action requested of the Secretary-General be approved. It recommended that the application of the exceptional measures be extended for up to three years to allow sufficient time for more productive engagement with Member States. The Committee recommended that the General Assembly request the Secretary-General to intensify his engagement with Member States with a view to identifying alternative solutions for addressing the conflicts between national legislation and the Staff Regulations and Rules concerning the secondment of active-duty military and police personnel.

<i>Report or resolution</i>	<i>Outcome</i>
Resolution 71/263	The General Assembly endorsed the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions.
A/74/546 Note by the Secretary-General on seconded active-duty military and police personnel	The Secretary-General proposed an extension of the exceptional measure by one year, until 31 December 2020, pending the consideration of his report by the General Assembly, to facilitate the full participation of all Member States in seconding active-duty officers, including Member States whose seconded military and police personnel were benefiting from the exceptional measure.
A/74/584 Report of the Advisory Committee on Administrative and Budgetary Questions on seconded active-duty military and police personnel	The Committee recommended that the General Assembly request the Secretary-General to provide detailed factual information in the context of his report on the overview of the financing of United Nations peacekeeping operations, including the scope of the issues involving the engagement of seconded active-duty uniformed personnel, the statistical information referred to in paragraph 7, the measures taken to date and the results of the most recent survey. The Committee maintained its recommendation that the Assembly request the Secretary-General to intensify his engagement with Member States in the interim, with a view to identifying solutions for addressing the conflicts between national legislation and the Staff Regulations and Rules regarding the secondment of active-duty military and police personnel. Subject to its recommendations and observations, the Advisory Committee recommended that the Assembly authorize the Secretary-General to extend the exceptional measure for seconded active-duty military and police personnel through 31 December 2020.
Resolution 74/254	The General Assembly requested the Secretary-General to intensify his efforts to engage with Member States and explore all viable options to resolve the conflicts, and to present his proposals to address the conflicts to the Assembly at the first part of its resumed seventy-fourth session. The Assembly decided to authorize the Secretary-General to extend the exceptional measure for seconded active-duty military and police personnel through 30 June 2020.

<i>Report or resolution</i>	<i>Outcome</i>
<p>A/74/700 Report of the Secretary-General on seconded active-duty military and police personnel</p>	<p>The Secretary-General proposed an assessment of the level of contributions provided by countries at three stages, before and upon the onboarding of the seconded personnel. He requested that the General Assembly authorize the Secretariat to continue to enter into agreements with Member States to prevent duplication of payment of salaries, benefits and allowances to seconded active-duty personnel and approve the continuation of the exceptional measure for serving seconded personnel until the end of their appointments.</p>
<p>Resolution 74/254 B</p>	<p>The General Assembly decided to authorize the Secretary-General to extend the exceptional measure for seconded active-duty military and police personnel until 31 July 2021, unless a permanent solution was implemented before then. It urged the Secretary-General to ensure accountability and impartiality of the personnel through applicable and relevant standards and supervision. It requested the Secretary-General to increase outreach and engagement with Member States and to explore all viable options to resolve issues involving the engagement of seconded active-duty military and police personnel, in particular the conflicts between national legislation and the Staff Regulations and Rules, and to present his proposals for its consideration at the first part of its resumed seventy-fifth session.</p>