



# General Assembly

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## Seventy-seventh session

### Fifth Committee

Agenda item 145

#### United Nations common system

#### **Draft decision submitted by the Chair of the Committee following informal consultations**

#### **United Nations common system**

The Fifth Committee,

#### **I Office of Legal Affairs**

Requests the Chair of the Fifth Committee to solicit a formal legal opinion from the Office of Legal Affairs of the Secretariat by Friday, 18 November 2022, containing responses to the following elements:

1. Notes that a proposal has been made to amend the statute of the International Civil Service Commission as follows:

#### **Article 10**

The Commission shall make recommendations to the General Assembly on:

- (a) The broad principles for the determination of the conditions of service of the staff;
- (b) The salary scales ~~of salaries and post adjustments~~ for staff in the Professional and higher categories;
- (c) Allowances and benefits of staff which are determined by the General Assembly;
- (d) Staff assessment.

#### **Article 11**

The Commission shall establish:

- (a) The methods by which the principles for determining conditions of service should be applied;



- (b) Rates of allowances and benefits, other than pensions and those referred to in article 10 (c), the conditions of entitlement thereto and standards of travel;
  - (c) ~~The post adjustment applicable to each duty station. The classification of duty stations for the purpose of applying post adjustments.~~
2. Underscores that, in considering the proposal, the General Assembly does not intend to alter the existing authority of the Assembly or the Commission, and only seeks to eliminate any perceived legal ambiguity;
  3. Inquires whether the amendment, as drafted, preserves the current operational reality, without altering the authority of the General Assembly or the Commission;
  4. Conveys that there is concern that, as drafted, the amendment could expand the authority of the Commission on matters related to post adjustment multipliers (for example, grant it the ability to set the value of the post adjustment multipliers, or determine whether post adjustment is part of the remuneration package), requests advice on how this potential and unintended shift in authority can be mitigated and whether adding “Remuneration structure and” or “Salary system and” in article 10 (b), or adding “The rates of” in article 11 (c) would preserve the current operational reality;
  5. Requests the Office of Legal Affairs, if the options mentioned in paragraph 4 affect other elements of the authority of the General Assembly or the Commission, to provide feedback on ways to address this issue;
  6. Also requests the Office, if the proposed amendment has an impact on the authority of the General Assembly or the Commission, to provide feedback on ways to preserve the current operational reality;
  7. Inquires whether the proposed amendment presents any other legal challenges and, if so, requests the Office to suggest measures to mitigate those challenges;
  8. Requests the Office to comment whether, in its legal opinion, the amendment sufficiently responds to the concerns outlined in rulings of the Administrative Tribunal of the International Labour Organization;
  9. Inquires whether an option to amend the statute through interpretive footnotes is sufficient and whether adding a footnote reading, “As decided by the General Assembly, the adoption of the post adjustment scale is subsumed in the adoption of the base/floor salary scale” to article 10 (b) of the current version of the statute of the Commission, or a footnote reading “As decided by the General Assembly, the value of the post adjustment multiplier point is set at 1% of the base/floor salary scale (one post adjustment multiplier point equals one per cent of base salary)” to article 11 (c) of the current version of the statute of the Commission, would preserve the current operational reality and provide the same level of legal clarity as amending the text of articles 10 and 11.

## **II**

### **International Civil Service Commission and the organizations of the United Nations common system**

Requests the Chair of the Fifth Committee to request the International Civil Service Commission to consult with the organizations of the United Nations common system and, during the consultative process, to invite the organizations to respond in writing no later than 9 December 2022 to the following questions:

1. The General Assembly is considering amending articles 10 and 11 of the statute of the International Civil Service Commission to reflect the current operational reality without altering the authority of the Assembly or the Commission. If such a surgical amendment either through the text or footnote were approved, does the Organization intend to take forward acceptance of the proposed amendment, in accordance with article 30 of the Commission statute?
2. What are the steps and the projected timeline for the Organization's acceptance process?

## **III**

### **Tribunals**

Invites the Administrative Tribunal of the International Labour Organization, the United Nations Dispute Tribunal and the United Nations Appeals Tribunal to express, in writing, their opinions on the matter by 1 December 2022, if they choose to do so.

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