



Ninth session
Agenda item 54

PERSONNEL POLICY OF THE UNITED NATIONS

(a) Proposed amendment of staff regulation 1.6

(b) Interpretation of annex IV, paragraph 2, of the Staff Regulations

Fifteenth report of the Advisory Committee on Administrative and Budgetary Questions to the ninth session of the General Assembly

1. At its 447th meeting on 29 October 1954, the Fifth Committee requested the Advisory Committee on Administrative and Budgetary Questions to consider and report on the following two items in the Secretary-General's report on the personnel policy of the United Nations (A/2777):

- (a) Proposed amendment of staff regulation 1.6 (A/2777, paragraphs 10 to 13); and
- (b) Interpretation of annex IV, paragraph 2, of the Staff Regulations (A/2777, paragraphs 22 to 26 and appendix).

Proposed amendment of staff regulation 1.6.

2. The text of the existing regulation, which reproduces without substantive change the provisional regulation adopted in 1946^{1/}, is set out below, together with the revision proposed by the Secretary-General:

^{1/} See regulation 9 in annex II to resolution 13 (I) adopted on 13 February 1946 by the General Assembly: "No member of the staff shall accept any honour, decoration, favour, gift or fee from any Government or from any other source external to the Organization during the period of his appointment, except for war services."

Existing regulation 1.6

No member of the Secretariat shall accept any honour, decoration, favour, gift or fee from any Government or from any other source external to the Organization during the period of his employment, except for war services.

Revised regulation 1.6 proposed by the Secretary-General

No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government or from any other source external to the Organization, if such acceptance is incompatible with his status as an international civil servant.

3. The General Assembly discussed this question at some length during its sixth session (1951-1952)^{1/}, when it considered, though without adopting, a text identical with that which the Secretary-General now proposes. At that time the Advisory Committee, in recommending the alternative text which was finally adopted by the Assembly, offered the following comment^{2/}:

"The text proposed^{3/} by the Secretary-General appears to be somewhat too wide, and the Committee therefore recommends the retention of the wording of provisional regulation 9, with the substitution of 'member of the Secretariat' for 'staff member' in the first line. The Committee presumes that only in very exceptional cases will the Secretary-General concur in any derogation from the provision, for example, where it is proposed to confer an honorary degree upon a member of the Secretariat or to award a decoration in recognition of services rendered prior to a member's appointment to the Secretariat."

4. In the opinion of the Advisory Committee, there are two alternative methods of regulating this matter: either (a) to lay down a general principle which by covering a multitude of differing cases may prove at times unduly restrictive; or (b) to give a full and detailed definition of the circumstances in which deviations from a general rule may be authorized. This latter procedure, apart from being extremely cumbersome, is open to the objection that the Staff Regulations of the United Nations, as stated in the preamble to those regulations, "represent the broad principles of policy for the staffing and administration of the Secretariat", and that it is for the Secretary-General to "provide and enforce such Staff Rules consistent with these principles as he considers necessary".

1/ See Official Records of the General Assembly, Sixth Session, Fifth Committee, 330th and 332nd to 334th meetings.

2/ Ibid., Annexes, agenda item 45, document A/1855, appendix, page 4.

3/ Ibid.

5. The text proposed by the Secretary-General (A/2777, paragraph 12) falls within the former category (alternative (a) above); it formulates a general principle consistent in form and purpose with the Staff Regulations. As regards the substance of the proposal, the main point of difference, by comparison with the existing regulation, is the inclusion of a qualifying clause, "if such acceptance is incompatible with his status as an international civil servant". The Secretary-General indicates that he would give this new regulation "a restrictive interpretation, permitting only what, on a common sense basis, should not be excluded" (A/2777, paragraph 13).

6. The Secretary-General cites (A/2777, paragraph 10) three examples to show why the regulation in its present form is unsatisfactory or even unworkable. The first example covers services (other than war services) rendered prior to appointment to the Secretariat. It is the opinion of the Advisory Committee that, while a strict interpretation may be desirable even in such cases so that the award shall not be identified, however erroneously, with the services currently performed by the individual concerned in the capacity of international civil servant, there may be grounds for some relaxation of the rigid principle which the Committee wishes generally to uphold. To this end, the Committee submits a suitable recommendation in paragraph 8 below. The second of the examples cited by the Secretary-General concerns the reimbursement of travel costs arising from participation by a staff member in an outside activity, with the Secretary-General's concurrence. The Advisory Committee finds nothing in the existing provision which would preclude the recovery of amounts actually disbursed for travel and hotel expenses and which, as such, cannot be classified as "favour, gift or fee." The third example deals with remuneration for a casual outside activity or part-time occupation "which in no way harms the Organization's interests". The former category of "casual outside activity" is understood to cover trivial cases - with which the law in any event does not concern itself - but, as regards the broader category of part-time occupation, the question arises whether, apart from the type of occupation, the volume of part-time work may not impair the health or efficiency of the staff member. Staff regulation 1.2, which provides that "the whole time of staff members shall be at the disposal of the Secretary-General", and further that "the Secretary-General shall establish a normal working week" appears relevant to this consideration.

7. The Secretary-General's present proposal is linked to the provisions of staff regulation 1.4 concerning the status of a staff member as an international civil servant (A/2777, paragraph 11). The Advisory Committee agrees that, should a modification of the existing text be desired, a qualifying clause embodying the fundamental principle of that regulation would constitute a reasonable safeguard. Nevertheless two related considerations have weighed heavily with the Committee: (a) that, within the spirit of regulation 1.4, a member of the Secretariat is called upon to work not in his own name but anonymously, under authority delegated by the Secretary-General; and (b) that in an international secretariat no single project can be attributed in its entirety to an individual member. At each successive stage of a project the staff member concerned will need to rely on a collective effort in which a variety of staff and services must have a part. It is therefore for consideration whether a member of the Secretariat, as distinct from the Organization, may legitimately be the recipient even of an honour in respect of work performed in such circumstances.

8. For these reasons the Advisory Committee considers that, despite the rigidity of its provisions, there is advantage in maintaining staff regulation 1.6 in its present form. The Committee, however, recommends that the General Assembly should specifically authorize the Secretary-General in applying the regulation, to be guided by the interpretative comment previously offered by the Advisory Committee (see paragraph 3 above), according to which the Secretary-General would concur in any derogation from its provisions only in very exceptional cases. Such cases might include, among others, the conferment of an honorary degree or the award of a decoration for services rendered prior to appointment to the Secretariat. But in each case it would rest with the Secretary-General to determine whether, in the light of particular circumstances, an exception should be authorized.

Interpretation of annex IV, paragraph 2, of the Staff Regulations

9. On this matter the Advisory Committee agrees with the opinion of the Secretary-General (A/2777, paragraphs 22 to 26), which it regards as incontrovertible.

10. The intention of the General Assembly in authorizing the education grant is established beyond the possibility of doubt in the Official Records^{1/}, to enable the children of staff members, despite the expatriation of their parents, to be brought up in a national environment in which national characteristics can be preserved intact. For that specific purpose the regulation contains in paragraph (b) a provision relating to travel expenses, and in the permissive paragraph (c) restrictive conditions concerning age or state of health. Furthermore, the latter paragraph makes explicit reference to "return" to the home country, thereby confirming that the grant is intended solely for the assistance of a staff member employed and resident in a country other than his own country. The inadvertent omission from the text of regulation (A/2777, appendix, page 1, paragraph 1) of the words "and resident" after the words "employed by the United Nations" cannot justify - save in the narrowest legal sense - the payment of the grant to a staff member residing in his own country. Inasmuch as a contrary interpretation would deprive the regulation of purpose and meaning, the Advisory Committee considers that, even in the absence of the formal confirmation requested by the Secretary-General (A/2777, paragraph 26), a claim for payment of the education grant could not with propriety be submitted by a staff member residing in his own country.

^{1/} See in particular Official Records of the General Assembly, First Session, Fifth Committee, 8th meeting; Ibid., Second Session, 76th meeting.