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PROGRAMME BUDGET FOR THE BIENNIUM 1984-1985

JOINT INSPECTION UNIT

PERSONNEL QUESTIONS

UNITED NATIONS COMMON SYSTEM

Follow-up report on staff costs in the United Nations Secretariat

Addendum

Comments of the Secretary-General

The Secretary-General has the honour to submit to the members of the General Assembly his comments on the report of the Joint Inspection Unit entitled "Follow-up report on staff costs in the United Nations Secretariat" (A/40/653).

Comments of the Secretary-General

1. The report of the Joint Inspection Unit entitled "Follow-up report on staff costs in the United Nations Secretariat" (A/40/653) deals with the remuneration of staff in the Professional and higher categories (paras. 6 to 50 and recommendations 1 to 3) and the question of staff activities in the United Nations Secretariat (paras. 52 to 74 and recommendation 4).

I. REMUNERATION OF STAFF IN THE PROFESSIONAL AND HIGHER CATEGORIES  
(PARAGRAPHS 6 TO 50 AND RECOMMENDATIONS 1 TO 3)

2. The issues dealt with by the Inspectors under this heading affect all the organizations of the common system. The views of the Administrative Committee on Co-ordination (ACC) are contained in paragraphs 6 and 7 of the statement

transmitted to the General Assembly in document A/C.5/40/41. In addition, the Secretary-General wishes to comment on the observations of the Inspectors in paragraphs 40 to 50 regarding the United Nations Administrative Tribunal (UNAT) and appeals addressed to it in respect of the recent decisions on post adjustment matters.

3. In their comments on the appeals submitted by staff members, the inspectors on the one hand seem to question the jurisdiction of UNAT in respect of these matters (paras. 47, first, and 48), while on the other hand suggesting that UNAT may wish to take into account when considering the appeals the views of the Inspectors concerning these appeals (para. 47). UNAT has been recognized by the International Court of Justice, in its advisory opinion on the effect of awards of compensation made by UNAT, 1/ to be a fully judicial organ. Therefore, it would not appear to be proper for any individual or organ to attempt to address UNAT in respect of pending cases except in accordance with the existing provisions for formally submitting positions pursuant to the rules of the Tribunal.

4. In paragraphs 47 and 48 of the report, the Inspectors suggest that UNAT does not have jurisdiction to consider these appeals. The UNAT statute provides in article 2 (2) that UNAT itself shall be judge of its own competence. If this is questioned in a particular case, it is open to the Committee on Applications for Review of Administrative Judgements to request an advisory opinion of the International Court of Justice which would be binding on UNAT. Until UNAT has considered a case and given its judgement, such statements as to questions of its competence would appear inappropriate.

5. It should also be noted that the suggestions made by the Inspectors, in paragraphs 48 to 51 of the report, that UNAT judgements are not final and that they may be reviewed and presumably reversed or disregarded by the General Assembly go directly contrary to the advisory opinion given by the International Court of Justice in 1954, 2/ which was noted and complied with by the Assembly in its resolution 888 (IX) of 17 December 1954.

6. The Secretary-General does not wish to comment on the views of the Inspectors on the substance of the appeals other than to note that the Inspectors are not correct in their statement in paragraph 47 that "the post adjustment index for New York concerns not only Professional staff and above but the General Service Category (through pensionable remuneration)". There is no link between the pensionable remuneration of General Service staff and the New York post adjustment index.

## II. STAFF ACTIVITIES

7. Under this heading in section IV of their report, the Inspectors present their view of the state of staff representative activities. The Inspectors first suggest that the staff representative bodies are encouraging the staff to challenge the decisions of the Member States in the General Assembly and thereby threatening to disrupt the United Nations common system. The Inspectors suggest further, in paragraph 53 of the report, that the staff bodies are vigorously supported in this by the Administration of the United Nations.

8. The duties and obligations of the staff are clearly set out in the Staff Regulations established by the General Assembly in accordance with Articles 100 and 101 of the Charter. These Regulations, in addition to laying down the specific duties and obligations of the staff in Article I, provide for certain rights in Articles VIII and XI. Article VIII calls for staff representation in joint advisory bodies at both the local and Secretariat levels. Article XI requires the establishment of a system for considering appeals against administrative decisions alleging the non-observance of their terms of appointment, including all pertinent regulations and rules, both within the Secretariat and before UNAT, which was set up for that purpose by the General Assembly. There are thus no grounds for questioning the propriety of staff members appealing decisions which they consider prejudicial to their interests.

9. The comments of the Inspectors regarding the relationship between the Administration and the staff on the salary issue can not be accepted. Members of every civil service, national and international, have some share in common conditions of service. But the implication that members of the Administration are not, or cannot, be objective in such matters is a serious one, because it implies a breach of the obligations set out in the Staff Regulations. It is the duty and responsibility of the Administration to act in the best interests of the Organization after a balanced assessment of all issues.

10. The Inspectors assert that the main thrust of staff activities, on which they claim too much time is spent, is directed at obtaining "still higher salaries and new financial benefits". Bearing in mind that it is quite normal for employee representatives to seek improved conditions of service, the Secretary-General believes the Inspectors have been most selective in characterizing the concerns and activities of the United Nations staff representatives.

11. The Secretary-General also believes that the Inspectors are unduly harsh in their contention that the staff representatives spread false expectations among the staff and affect their morale and, ultimately, the efficiency of the Secretariat, while claiming to enhance it. What would damage the morale of the staff would be attempts to interfere with their freedom of association and expression.

12. The current arrangements for the representation of the staff had been the subject of a report to the General Assembly at its thirty-seventh session <sup>3/</sup> when Article VIII of the Staff Regulations was amended by the Assembly, which thereby approved these arrangements. The arrangements allow for a thorough review of questions which might impinge on the welfare of the staff and do thereby, in the opinion of the Secretary-General, contribute to the efficiency of the Secretariat.

13. The Inspectors are also critical of the staff representatives for invoking Conventions of the International Labour Organisation in support of their demands and actions. Without wishing to enter into a debate on the applicability to the international civil service of the various provisions of these conventions, it must at minimum be recognized that the principles underlying them cannot simply be disregarded. The right of association is recognized by articles 20 and 23 (4) of the Universal Declaration of Human Rights adopted by the General Assembly. The Declaration proclaims "a common standard - for all peoples and all nations" so that

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"every individual and every organ of society" shall strive to secure its universal and effective observance. As UNAT has pointed out, "the principle of the right of association to which the United Nations are solemnly pledged is admitted on all sides to be a principle which must prevail also in the Organization's own Secretariat". 4/

14. On the other hand, the Secretary-General whole-heartedly agrees with the Inspectors on the importance of the Report on Standards of Conduct in the International Civil Service prepared by the International Civil Service Advisory Board in 1954, at the request of ACC, as a guide to the conduct of staff. It is precisely for this reason that this report was re-issued to all staff of the Secretariat by order of the Secretary-General when he took office. Moreover, the report was reviewed by ACC in 1982, reprinted in 1983 with a revised preface, and all new staff members receive a copy.

15. In conclusion, the Secretary-General considers that the assessment of the Inspectors of staff activities in the United Nations Secretariat lacks balance. The relationship between the Administration and the staff has not been always harmonious, nor can harmony always be expected in that relationship. A dialogue, often vigorous, always frank, is probably the best attainable condition, provided that the authority of the Secretary-General is clearly respected and the interests of the Organization clearly kept in mind. The Secretary-General has periodically reviewed developments in staff-management relations, and will continue to do so in the interest of improving the effectiveness and efficiency of the Organization.

#### Notes

1/ I.C.J. Reports 1954, p. 57.

2/ Ibid., p. 47.

3/ A/C.5/37/54.

4/ Robinson v. The Secretary-General of the United Nations, Judgement No. 15 of 11 August 1952, (AT/DEC/15), para. 11.