

External Affairs
Supplementary Paper

No. 53/58 UNITED NATIONS PERSONNEL POLICY
(Amendments to Staff Regulations)

Text of a statement delivered on November 24, 1953, by the Vice-Chairman of the Canadian Delegation, Mr. Alcide Côté, in the Fifth Committee of the eighth session of the United Nations General Assembly (Agenda item 51).

Note: The resolutions adopted on this subject and the text of a Canadian statement made on December 1, 1953 are to be found in Supplementary Paper No. 53/59.

I would be remiss if I did not, at the outset, commend the Secretary-General for his thoughtful study of this very important and complicated subject; and for his detailed and lucid presentation of the issues involved and of his proposals for removing as far as possible the anomalies and sources of conflict which have existed heretofore in the application of the present staff regulations. Our Advisory Committee should also have our thanks for the most helpful study they have made under difficulties recognized by us all.

It might not be inappropriate for me to express the belief of my Delegation that there is no reason why public opinion in member states should lead to the conclusion that, because a few dismissals of members of the staff have been found necessary, the United Nations Secretariat is a hot-bed of intrigue. I should therefore like to commend the Secretary-General for, and to associate my Delegation with, his remarks in paragraph 93 of his report in which he expresses his conviction that the United Nations is at present served by a dedicated and competent group of men and women on whom he may thoroughly rely for the accomplishment of the tasks lying ahead.

The concern of my Delegation, which I am sure must be the concern of every delegation here, is to create conditions such that the Secretary-General may exercise fully those powers which the General Assembly has vested in him in the Charter, while ensuring at the same time that a competent and loyal international staff is provided with full protection against arbitrary acts. My Delegation agrees fully with the Secretary-General that it is difficult to see how a postponement of the issues now before us could be in the interest either of the organization or of the staff.

Speaking generally, for we may have specific comments on matters of detail to offer later, we would say that the proposed amendments to the regulations provide a needed and acceptable clarification of the powers of the Secretary-General. For the protection of the staff, who have no national Court of Appeal, we attach great importance to the role of the Administrative Tribunal - a role from which the amendments to the regulations under discussion will not detract.

My Delegation is happy to note that the Secretary-General has stated that, and I quote, "the decisions of the Secretary-General would remain subject to review by the Administrative Tribunal to the full extent of its present legal authority"; that the Advisory Committee has reiterated this specific statement, and that the Secretary-General in presenting his report to this Committee saw fit to emphasize again this fact. My Delegation concurs in this view and is satisfied that the new regulations as proposed by the Secretary-General in no way detract from the Administrative Tribunal as a safeguard for the staff.

It is clear that the present regulations are not definite enough and that, whereas in the past, certain acts could not be considered by the Tribunal in the context of the old regulations as justifying dismissal, these same acts might now, under the new regulations, be accepted by the Tribunal as proper reasons for dismissal. We are agreed that the regulations must be spelled out in greater detail to lessen the chances of conflict between the Secretary-General and the Tribunal. This is surely the Secretary-General's intention in seeking the proposed modifications. In paragraph 33 of his report, he states that "the breeding of such conflicts between the administrative and strictly legal approaches should be avoided by a proper amplification of the staff regulations as to the grounds upon which the Secretary-General may terminate employment".

We would be interested to hear more, at an appropriate time, of the Secretary-General's proposals for further arrangements for setting up procedures whereby staff members could put on record before an independent body of equals what they themselves consider to be the facts of the situation, and mention is also made of a special advisory board. While these suggestions appear to have merit, my Delegation cannot help feeling, as did our colleague from Colombia, in his statement the other day, that the Secretary-General may have too many advisory panels and committees, and that the appeals mechanism might profitably be simplified. In saying this, I should like to make clear that my remarks should not be construed in the sense of a desire to weaken by one jot any machinery presently enjoyed by, or proposed for, the staff for their protection. My intention is merely to point out that there appears to be a plethora of bodies that might be consolidated to some extent to the benefit of all. This is a matter which may well be left to the Secretary-General and the members of his staff to work out to their own satisfaction. My Delegation, however, has some suggestions, which it would be prepared to advance for the consideration of the Secretary-General and his staff at an appropriate time should they wish to give this matter their attention.

The Representative of Colombia made another suggestion with which, if I interpreted it correctly, my Delegation cannot agree. As I understand it, the suggestion was that whatever amendments to the regulations we agree to here at the present time would be in force on a temporary basis. We feel that these regulations should be inscribed so as to have full force, in order to avoid any further undesirable element of uncertainty. We do agree, however, that it would be desirable to review them at the end of the two year period recommended by the Advisory Committee.

My Delegation also believes it important to remember in the present discussion the fact that many persons who joined the United Nations Secretariat are far removed from their normal sphere of alternative employment. It is very important to see to it that their security of tenure and the financial provisions for separations are adequate in the light of this difference between their conditions of employment and those enjoyed by the civil servants of some national services.

Criteria which govern disciplinary action or dismissals in national civil services may not necessarily be applicable in the international field. National traditions of service have been built up over the centuries, and our international civil service has the benefit of being able to take advantage of the experience of all in order to build up over time a tradition and a code of conduct applicable to all members of the Secretariat. Naturally, clarification of standards will be required from time to time in the light of experience.

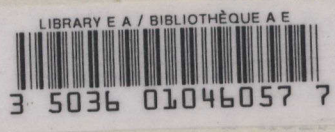
We wonder, therefore, whether it would not be well to arrange to record more formally than is proposed by the Secretary-General the principles which have been and will be applied in interpreting the Staff Regulations. Delegations might find it acceptable to have a provision written into the regulations for a periodic review by the Assembly of the principles governing the Secretary-General's decisions. The Secretary-General's principles of interpretation might be attached in the first instance as an appendix, later to be crystallized into additions to the Staff Regulations after they have been applied over a period of years. A body of equity might well be built up in this traditional way; first to supplement and then to be embodied in the law. In the opinion of my Delegation a first review of these principles might usefully form the basis for a reconsideration of the new amendments and the regulations as a whole after the two-year period to which I referred earlier.

For reasons similar to those obtaining for security of tenure, the Canadian Delegation inclines to the view that the original proposal of the Secretary-General for compensation not to exceed two years' salary is to be preferred to the recommendation of the Advisory Committee. In this regard we would associate ourselves with our colleague from the United Kingdom in his comment that even a two year maximum might be too rigid; in fact, the Secretary-General has anticipated this in his comment in paragraph 84 of his report where he states, and I quote, "If in any case the Tribunal finds such compensation insufficient it is of course free to recommend the payment of a higher indemnity in the special case under consideration."

We have noted the objections expressed in the Staff Paper to the new Regulations 9.3(a)iii; but we have also been impressed by the statement of the Secretary-General as to the reasons which prompted him to ask for these powers in the interests of the staff themselves. We are of an open mind as to whether or not this section should be included. The Secretary-General has stated that he could get along without it. But he does not think it wise - and for what to us appear to be good reasons - that he should be asked to get along without it. We would therefore not attempt to block the exclusion of this section should substantial support for its exclusion develop within this Committee. But my

Delegation would be prepared to see it retained; for we are satisfied that adequate safeguards remain to the Staff through the Appeals and Tribunal procedures which have been set up for their protection. As the Secretary-General has said and I quote - "with the obligation of the Secretary-General to give to the Staff member his reasons for action if the Staff member so desires, his obligation to present the case fully to the Advisory Board, on which the Staff will be represented, and his obligation to explain his actions to the Tribunal, the safeguards against abuses are so strong that the risk cannot possibly outweigh the advantage of the clause from the Staff point of view".

We are also inclined to the view that the Secretary-General in the matter of definition of political activities should be able to make exceptions. But they should fall within established rules. For this reason, we lean more to the text proposed by the Secretary-General for the modification of Regulation 1.7 than we do to the more rigid text recommended by the Advisory Committee. But these and other questions of detail can more properly be dealt with later in the debate when the Committee begins a detailed consideration of the proposed amendment, at which time my Delegation may have more to say.



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We have noted the objections expressed in the Staff Paper to the new Regulations 9.3(a)(i); but we have also been impressed by the statement of the Secretary-General as to the reasons which prompted him to ask for these powers in the interests of the Staff themselves. We are of an open mind as to whether or not this section should be included. The Secretary-General has stated that he could get along without it. But he does not think it wise - and for what to us appear to be good reasons - that he should be asked to get along without it. We would therefore not attempt to block the exclusion of this section should substantial support for its exclusion develop within this Committee. But my