

Responses to Requests

of the Fifth Committee on
Administration of Justice at the United Nations
(Agenda Item 128)

Report of the Redesign Panel on the UN system of administration of justice (A/61/205)
Note of the Secretary General on the report of the Redesign Panel (A/61/758)

27 March 2007

Submitted by DM
With input from OLA, DPKO and UNDP

I. *Answers to questions relating to the implementation of several paragraphs contained in GA resolution 59/283, with update of information provided in A/61/342.*

- **In paragraph 16**, the General Assembly decided that the time limits recommended by the Office of Internal Oversight Services will be mandatory within the appeals process once adequate capacity is in place, and no later than 1 January 2006.

The time limits recommended by the Office of Internal Oversight Services have been observed since 1 January 2006. The Joint Appeals Board in New York has granted the Administrative Law Unit only one extension of no more than a month with respect to appeals filed after that date, when the Unit is not able to file the respondent's reply within the statutory two months. Such requests for extension have been granted with the understanding that in the absence of compelling reasons, no further requests would be entertained.

- **In paragraph 17**, the General Assembly decided that measures should be taken to eliminate the appearance of conflict of interest, and towards this end requested the Secretary-General to proceed with the transfer of the responsibility for formulating decisions on appeals from the Department of Management of the Secretariat to the Office of the Secretary-General. Due to absence of adequate capacity in the Office of the Secretary-General in recent years and the composition, structure and work exigencies of that office, it was found that the transfer of these functions would not be possible at that time. It would not have been possible for that Office to carry out the important task entrusted to it by the Assembly within statutory deadlines.
- In early 2007, with a new administration in place, the new Under Secretary-General for Management proposed that the transfer of necessary resources for the implementation of this General Assembly request could be undertaken.
- **In paragraph 28**, the General Assembly encouraged the Panel of Counsel to increase outreach activities, and requested the Secretary-General to consider the inclusion of travel costs in section 28A, Office of the Under-Secretary-General for Management, of the proposed programme budget for the biennium 2006–2007, for this purpose.

The Panel of Counsel prepared a three day training plan and cost analysis which, after consideration by the ACABQ, was to be done only within existing resources. When existing resources were not made available, the POC continued outreach through a variety of other means, including training courses in NY and personal conversations/communication with members of the Panel of Counsel in other duty stations to support their work.

The proposed outreach would require valuable resources to promote what is ostensibly a volunteer approach, which has been found to no longer be effective. Given the recommendations of the Redesign Panel, and the timing of these discussions, it might be more appropriate to put any available resources toward work that would facilitate transition into the new system. Thus, if additional resources were found, they might be better used towards supporting the staffing of the POC office to enable those from other duty stations to find the representation they need through that office. Currently 50% of the cases received in the NY POC office come from duty stations outside Headquarters.

- **In paragraph 30**, the General Assembly requested the Secretary-General to submit to the General Assembly by the end of its fifty-ninth session proposals to separate the above-mentioned functions, through the redeployment of resources, in order to avoid conflicts of interest, taking into account a number of needs.

In his report A/59/883, responding to the GA's request for proposals to separate the functions of the Administrative Law Unit through the redeployment of resources to avoid conflicts of interest, the Secretary-General stated that he did not share the view that there was a conflict of interest when the same unit handles the request for administrative review and represents the administration in the same case. The Secretary-general noted that all parties were aware that the Administrative Law Unit acted on behalf of the administration at all times during the appeals process. He also stated that it would not be possible to separate the functions of the Unit through redeployment of resources given the limited resources of the Unit, which also dealt with disciplinary cases Secretariat-wide. The Secretary-General noted that the issue would be considered by the Redesign Panel in a comprehensive manner with a view to ensuring that the Organization had the most effective internal justice system.

Following his review of the Redesign Panel's report, the Secretary-General proposes that the existing system should be replaced by a stronger management evaluation function which would not only review administrative decisions challenged by staff members and inform the staff members of the outcome of the review (including reversal or modification of the initial decision, suspension of implementation, or explanation of the reasons for the decision if it is maintained) but also make use of a number of measures to ensure managerial accountability. The management evaluation function would be performed by a separate unit, located in the Department of Management, to which sufficient resources would need to be provided to ensure that the function could be exercised effectively. (A/61/758, paras. 29-31).

- **In paragraph 31**, the General Assembly stressed that increased accountability by managers would contribute to the elimination of the backlog of appeals cases, and decided that
 - (a) Staff members wishing to appeal an administrative decision should send a copy of their request to the executive head of their department;
 - (b) The Administrative Law Unit should clarify with managers the requirements for the respondent's reply and the contributions expected from managers, as well as time limits.

As explained in A/61/342, paragraph 31, staff rule 111.2(a) was amended effective 1 January 2006 to provide that staff members wishing to appeal an administrative decision should, as a first step, address a letter to the Secretary-General and send a copy to the executive head of the staff member's department, office, fund or programme requesting that the administrative decision be reviewed.

Since June 2005, the Office of Human Resources Management informs managers of (a) the requirement for the conduct of administrative reviews; (b) their responsibility for justifying a contested decision, indicating that their explanations will be included in the respondent's reply; and (c) the time frame for both administrative review and submission of comments.

- **In paragraph 32**, the General Assembly requested the Secretary-General to ensure that written explanations by managers to the Administrative Law Unit are submitted within eight weeks with no possibility of extension, and decides that compliance with this responsibility shall constitute part of the performance appraisal of managers.

As a large proportion of decisions for which staff members request administrative review are taken in departments and offices under authority delegated to heads of those departments and offices, the most effective way to ensure that the necessary explanations are provided in a timely manner is for the Secretary-General to hold the head of department or office accountable for the timeliness of written explanations in respect of requests for review of decisions taken in her or her department or office. The head or department or office in turn will be responsible for ensuring that proper systems are in place in the departments or office and instructions given, so that individual managers to whom authority to take a particular decision has been sub-delegated would submit comments in a timely manner.

To that effect, an objective has been added to the 2007 Senior Managers Compact with the Secretary-General, which includes "Timely response to staff appeals and contested decisions" as one of the management objectives, referring to paragraph 32 of resolution 59/283, and specifies as a performance measure that all written explanations by managers to the Administrative Law Unit are submitted within eight weeks.

Work currently under way to review the performance appraisal system (PAS) will include a review at the next regular session of SMCC of the best manner in which compliance with the requirement of timely submission of comments can be reflected in the PAS of managers other than heads of departments and offices.

- **In paragraph 37**, the General Assembly requested the Secretary-General to guarantee the immediate independence of the Tribunal, including through ensuring the provision of administrative and logistical services that are exclusive to the secretariat of the Tribunal.

The administrative arrangements regarding the secretariat of the Tribunal have been changed and the Executive Office of the Secretary-General now provides all necessary services to the secretariat. The arrangement works very well and the secretariat of the Tribunal is pleased with the speed and efficiency of the service.

With regard to the current system and the foreseen transitional period before the new system takes effect, the secretariat of the Tribunal has noted that efforts had been made to eliminate the backlog of the JAB/JDC, e.g., by adding temporary staff to its secretariat. The concern is that an increased output by the JAB/JDC will most certainly lead to increased input at the UNAT level: if no similar efforts are made to assist the Tribunal in clearing its backlog (currently already about 80 cases), then the backlog will simply be transferred from the JAB/JDC to UNAT, and the time gained at one end will be lost at the other. Additional staff resources will be necessary for UNAT to dispose of a larger number of cases. The General Assembly may also wish to consider some incentives for the members of the Tribunal to accelerate output, such as providing resources for extra sessions and/or remuneration for UNAT members.

II. Could the Secretariat elaborate why the idea of a jury system was not pursued since it was endorsed by Member States and was presented since the 57 GA session? We find that there will still be a transitional period in which the JAB will be functioning and the need for volunteers will be existent, therefore what other measures are being thought to address the need for volunteers to serve on the Boards in light of op 7 and 8 of resolution 59/283?

The jury system would still be a type of volunteerism that would require staff members to be away from their official functions and would require extensive training in order for the participation to be meaningful. A jury system would not change the inherent problems with volunteerism and peer review, i.e., availability and training. The organization and support of such a system would require considerable efforts and resources which might be more meaningfully used in transitioning into the new system.

III. The categorization of cases is necessary for a full assessment of the AOJ system, the type of cases varies when the SG reports on the Panel of Counsel and the workload they deal with versus the types of cases that are being submitted to the current formal system and then the type of cases the Ombudsman deals with. We've also noticed that the type of cases vary from headquarters to the field and on the type of staff. So this categorization would be useful and we would appreciate if it is based on statistics.

The statistics and status of disciplinary and appeals cases for 2004 and 2005 are contained in A/61/71. In addition, that report contains detail on the disposition of cases and work of the Panel of Counsel for the same period. The detail of the cases and types of services handled by the Office of the Ombudsman is contained in A/61/524 (ref. Figures I-VI).

Additional detail and breakdown for the JAB and Panel of Counsel cases are contained in the following pages.

It is worth pointing out that the types of cases vary according to the responsibilities of different offices which are not necessarily the same. The Ombudsman Office has an independent specialized mandate and a completely informal and confidential approach that would make any meaningful comparison to it with other offices difficult.

It is also difficult to compare statistics with the POC to other offices as no other Office carries the exact same mandate. The POC is responsible for assisting staff members in a variety of informal and formal processes from all duty stations, the Secretariat, Funds and Programmes and Peacekeeping Missions. Since the scope of all the different recourse bodies includes types of cases that would not necessarily be included in those seeking recourse to only, e.g., the JAB/JDC, the range of types of cases submitted to the POC will naturally be larger if compared with the JAB/JDC. Additionally, staff members seeking assistance from the POC do not necessarily distinguish between informal and formal, that determination/distinction is made only after consultation, thus, both informal and formal matters are dealt with in the office. The JAB/JDC would be formal and the Ombudsman would be informal; the POC could be both.

**Number of appeals cases categorized by subject (with percentages¹)
decided by the Secretary-General during 2001 to 2006²**

Main subject category	2001		2002		2003		2004		2005		2006	
	number	%	number	%	number	%	number	%	number	%	number	%
Separation	48	54	32	38	41	38	36	42	54	41	39	38
Recruitment/Placement/Promotion/Selection	31	34	28	33	39	36	26	32	47	36	32	30
Compensation/Benefits/Social Security	3	3	11	13	14	13	9	11	20	15	18	14
Performance evaluation	2	2	4	5	4	4	2	2	1	1	1	2
Discrimination/unequal treatment	0	0	2	2	1	1	1	1	1	1	0	0
Recovery of monies	3	3	1	1	5	4	2	2	2	2	0	5
Maladministration	0	0	0	0	0	0	1	1	0	0	0	0
Adverse material	1	1	1	1	1	1	2	2	4	3	0	1
Other	2	3	6	7	3	3	6	7	3	2	12	9
Total	90		85		108		85		132		102	

¹ Rounded off to the nearest whole number; not all percentage columns may add up to 100.

² As of 31 December 2006.

**Number of appeals cases decided by the Secretary-General
Categorized by location of JAB Secretariat that heard appeal (with percentages³) during 2001 - 2006⁴**

Location of JAB Secretariat where appeal heard	2001		2002		2003		2004		2005		2006	
	number	%	number	%	number	%	number	%	number	%	number	%
New York	59	66	58	68	68	63	60	71	90	68	64	63
Geneva	19	21	14	16	28	26	15	18	18	14	30	29
Nairobi	7	8	10	12	6	6	5	6	20	15	6	6
Vienna	5	6	3	4	6	6	5	6	4	3	2	2
Total	90		85		108		85		132		102	

³ Rounded off to the nearest whole number; not all percentage columns may add up to 100.

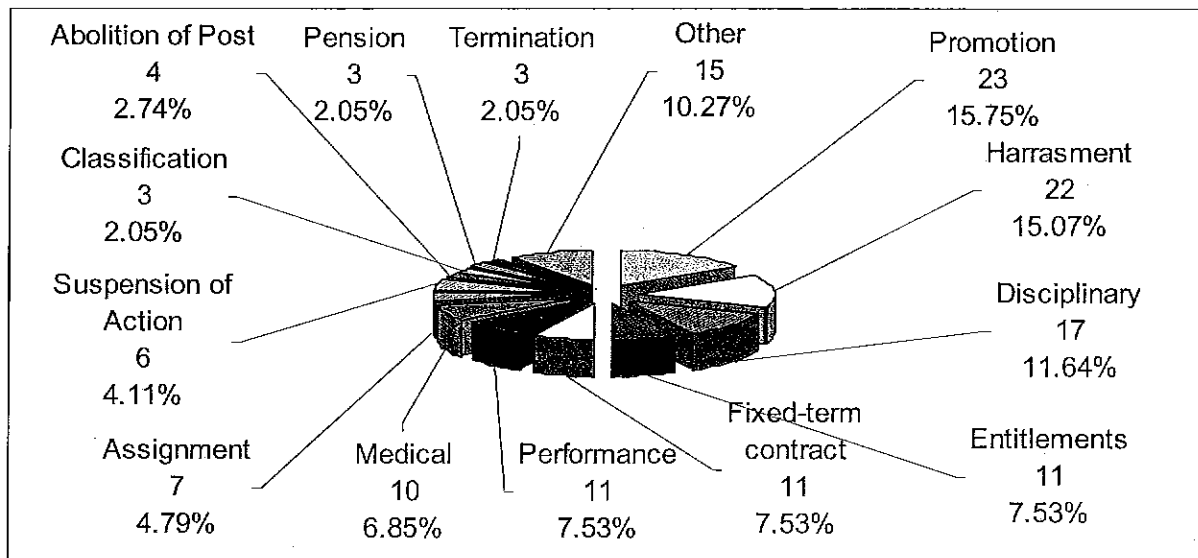
⁴ As of 31 December 2006.

2006

Panel of Counsel - statistics and breakdown of cases

Subject	New York	%	Offices away from Headquarters	%	Total
Abolition of Post	4	2.74	1	0.68	5
Assignment	7	4.79	6	4.05	13
Classification	3	2.05	1	0.68	4
Disciplinary	17	11.64	45	30.41	62
Entitlements	11	7.53	3	2.03	14
Fixed-term contract	11	7.53	32	21.62	43
Harassment	22	15.07	6	4.05	28
Medical	10	6.85	6	4.05	16
Other	15	10.27	12	8.11	27
Pension	3	2.05	2	1.35	5
Performance	11	7.53	3	2.03	14
Promotion	23	15.75	9	6.08	32
Suspension of Action	6	4.11	17	11.49	23
Termination	3	2.05	5	3.38	8
Total	146		148		294

New York



IV. Was the SG ever consulted on op. 26 by staff representatives to explore the possibility of a staff-funded scheme in the Organization that provides legal advice to the staff?

To our knowledge, management is not aware of any such consultation by staff representatives. It has not arisen in the formal consultations between management and staff through the established JAC and SMCC mechanisms.

V. What measures is management taking to improve the functioning of the current system?

Additional resources approved by the General Assembly, together with the additional measures introduced by resolution 59/283, have resulted in a major decrease of the backlog of cases, both at the Administrative Law Unit level and at the JAB level.

In addition, as indicated above, the mandated transfer of responsibilities from the Department of Management to the Office of the Secretary-General is now being more closely examined, in order to avoid any perceived conflict of interest.

Progress on improving other aspects of the existing system is detailed in the answers above. Nevertheless, the Secretary-General shares the view of the Redesign Panel that incremental improvements to the existing system will not address the fundamental deficiencies of the current internal justice system.

VI. Can Management put together a list of the existing Boards and briefly describe their functions: Claims Board, Medical Boards relating to sick leave, the Advisory Board on Compensation Claims and the Central Examination Board. What other ones exist?

Explain the functions and need to retain the rebuttal panels and the classification appeals and review committees in the current formal system (para 75 of the Redesign Panel Report)? Including the absorption of the panel on discrimination and other grievances in the formal system.

Specialized avenues of recourse were described in an Information Circular which was distributed to all staff (ref. ST/IC/2004/4). In terms of the specific boards mentioned above, the details are contained below.

It was the agreed staff-management view at the SMCC session that the rebuttal panels, classification appeals and review committees should not be abolished since they perform very specific roles which would not be absorbed by the creation of the UNDT/UNAT mechanisms. The SMCC did however agree to abolish the existing Panel on Discrimination and Other Grievances, in view of the proposed strengthened role of the Office of the Ombudsman.

Specialized/technical advisory bodies mentioned in A/61/758, para. 18

Composition and terms of reference

I. PAS rebuttal panel

Source: ST/AI/2002/3 (Performance Appraisal System)

Section 14

Rebuttal panels

14.1 In consultation with the staff representatives of the department or office concerned, the head of the department or office, or his or her representative, shall draw up a list of rebuttal panel members composed of three groups of staff members from the department or office concerned, in equal numbers. The list shall be composed as follows:

- (a) Rebuttal panel members designated by the head of the department or office;
- (b) Rebuttal panel members designated by the staff of the department or office in accordance with local practice;
- (c) Rebuttal panel chairpersons, selected by the head of the department or office after consultation with the staff representatives of that department or office.

The approved list, subdivided as indicated above, shall normally comprise nine individuals in all for large departments or offices, six for smaller departments or offices. However, if a department or office determines that a larger membership pool is needed, it may expand the membership by adding one or more members in each of the groups specified above. Every effort shall be made to obtain an appropriate geographical and gender balance, where possible. The head of the department or office shall inform the staff in writing of the composition of the approved list.

14.2 Rebuttal panel members shall serve for a two-year term. In the event that a member of the rebuttal panel is assigned to functions outside the department or office concerned, he or she shall be replaced in accordance with the procedure relevant to the group to which the rebuttal panel member belongs.

14.3 In small offices where it may be difficult to constitute a list from the staff members of that office, the approved list may include staff members from other Secretariat offices at the same duty station, provided those staff members have the knowledge and experience required to review the appraisal and its rating.

Section 15

Rebuttal process

15.1 Staff members who disagree with the performance rating given at the end of the performance year may, within 30 days of signing the completed performance appraisal form, submit to their Executive Office at Headquarters, or to the Chief of Administration elsewhere, a written rebuttal statement setting forth briefly the specific reasons why a higher rating should have been given. Staff members having received the rating of "consistently exceeds performance expectations" may not initiate a rebuttal. The rebuttal statement shall contain the names of the three individuals, one from each of the three groups identified in section 14.1, whom the staff member has selected to serve on the rebuttal panel. A copy of the rebuttal statement shall be placed in the staff member's official status file.

15.2 After receiving a copy of the rebuttal statement, the head of department or office, or his or her representative, shall promptly prepare and submit to the rebuttal panel a brief written statement in reply to the rebuttal statement submitted by the staff member. A copy of the reply to the rebuttal statement shall be given to the staff member and placed in his or her official status file. Unless geographical location makes it impractical, the panel shall hear the staff member, the first and second reporting officers and, at the discretion of the panel, other staff members who may have information relevant to the review of the appraisal rating.

15.3 The rebuttal panels shall prepare with maximum dispatch a brief report setting forth the reasons why the original appraisal rating should or should not be maintained. The report of the rebuttal panel shall be placed in the staff member's official status file as an attachment to the PAS. The performance rating resulting from the rebuttal process shall be binding on the head of the department or office and on the staff member concerned, subject to the ultimate authority of the Secretary-General as Chief Administrative Officer of the Organization, who may review the matter as needed on the basis of the record. Any change in the final rating, and the date of the decision, shall be marked by the executive or administrative office on the final appraisal section of the PAS form, with annotation that the rating was changed as a result of a PAS rebuttal.

15.4 The rating resulting from an appraisal that has not been rebutted, or from the rebuttal process, shall not be subject to further appeal. However, administrative decisions that stem from any final performance appraisal and that affect the conditions of service of a staff member may be appealed.

II. Classification Appeals Committee

Source: ST/AI/1998/9 (System for the classification of posts)

Section 7

Classification Appeals Committees

Establishment

7.1 Classification Appeals Committees to examine classification appeals and advise the Assistant Secretary-General for Human Resources Management thereon or the respective head of office, as appropriate, shall be established as follows:

- (a) A Classification Appeals Committee for appeals concerning posts classified in the Professional category worldwide;
- (b) A New York General Service Classification Appeals Committee for:
 - (i) Appeals concerning posts classified in the General Service and related categories at Headquarters and in small and medium-sized duty stations, except where posts at such duty stations are administered by the offices indicated in subparagraph (c) below;
 - (ii) Appeals concerning all posts in the General Service and related categories when the classification of the post at a Professional level is being requested;
- (c) Classification Appeals Committees in ECA, ECLAC, ESCAP, ESCWA, the United Nations Office at Geneva, the United Nations Office at Nairobi and the United Nations Office at Vienna for appeals concerning posts in the General Service and related

categories administered by the office concerned, except where classification of a post at a Professional level is requested;

(d) An ad hoc Classification Appeals Committee may be established for a particular appeal or appeals concerning posts in the Field Service category.

Membership

7.2 The Classification Appeals Committee for posts in the Professional category shall comprise:

(a) A chairperson appointed by the Secretary-General on the recommendation of the Staff-Management Coordination Committee;

(b) Two members appointed by the Secretary-General;

(c) Two members designated by the Staff-Management Coordination Committee.

7.3 The New York General Service Classification Appeals Committee shall comprise:

(a) A chairperson appointed by the Secretary-General on recommendation of the Joint Advisory Committee at Headquarters;

(b) Two or more members appointed by the Secretary-General;

(c) An equal number of members designated by the staff representative body at Headquarters.

7.4 The General Service Classification Appeals Committees in ECA, ECLAC, ESCAP, ESCWA, the United Nations Office at Geneva, the United Nations Office at Nairobi and the United Nations Office at Vienna shall each comprise:

(a) A chairperson appointed by the respective head of office, in consultation with the staff representative body or bodies at the duty station concerned;

(b) Two or more members appointed by the head of office;

(c) An equal number of members designated by the staff representative body or bodies at the duty station concerned.

7.5 An ad hoc Classification Appeals Committee for an appeal or appeals concerning Field Service posts shall comprise:

(a) A chairperson appointed by the Secretary-General in consultation with the staff representatives of the Field Service staff;

(b) Members appointed by the Secretary-General;

(c) An equal number of members designated by the staff representatives of the Field Service staff.

Terms of office

7.6 The chairperson and members shall be appointed or designated for two years.

Rules of procedure

7.7 Each Classification Appeals Committee shall normally follow the same rules of procedure as the Classification Appeals Committee for posts in the Professional category, subject to changes that may be approved by each Committee in the light of its own requirements.

III. Advisory Board on Compensation Claims

Source: Article 16 of Appendix D to the Staff Rules

Article 16. Advisory Board on Compensation Claims

(a) An Advisory Board on Compensation Claims shall be established to make recommendations to the Secretary-General concerning claims for compensation under these rules;

(b) The Advisory Board may be consulted by the Secretary-General on any matter connected with the implementation and administration of these rules;

(c) The Advisory Board may decide on such procedures as it may consider necessary for the purpose of discharging its responsibilities under the provisions of this article;

(d) The Board shall consist of:

(i) Three representatives of the Administration appointed by the Secretary-General;

(ii) Three representatives of the staff appointed by the Secretary-General on the recommendation of the Staff Committee;

who should have the necessary expertise in administrative and personnel matters.

(e) A Secretary shall be designated by the Secretary-General. He may not, at the same time, be a member of the Advisory Board on Compensation Claims.

IV. Medical Boards

A. In respect of decisions relating to sick leave

Source: Staff rule 106.2

(j) Where further sick leave is refused or the unused portion of sick leave is withdrawn because the Secretary-General is satisfied that the staff member is able to return to duty and the staff member disputes the decision, the matter shall be referred, at his or her request, to an independent practitioner acceptable to both the Medical Director and the staff member or to a medical board.

- (k) The medical board shall be composed of:
- (i) A medical practitioner selected by the staff member;
 - (ii) The United Nations Medical Director or a medical practitioner designated by the Medical Director; and
 - (iii) A third medical practitioner, who shall be selected by agreement between the other two members and who shall not be a medical officer of the United Nations.

B. In respect of decisions relating to compensation under Appendix D

Source: Article 17 of Appendix D to the Staff Rules

(a) Reconsideration of the determination by the Secretary-General of the existence of an injury or illness attributable to the performance of official duties, or of the type and degree of disability may be requested within thirty days of notice of the decision; provided, however, that in exceptional circumstances the Secretary-General may accept for consideration a request made at a later date.

The request for reconsideration shall be accompanied by the name of the medical practitioner chosen by the staff member to represent him on the medical board provided for under paragraph (b);

(b) A medical board shall be convened to consider and to report to the Advisory Board on Compensation Claims on the medical aspects of the appeal. The medical board shall consist of: (i) a qualified medical practitioner selected by the claimant; (ii) the Medical Director of the United Nations or a medical practitioner selected by him; (iii) a third qualified medical practitioner who shall be selected by the first two, and who shall not be a medical officer of the United Nations;

(c) The Advisory Board on Compensation Claims shall transmit its recommendations together with the report of the medical board to the Secretary-General who shall make the final determination;

(d) If after reviewing the report of the medical board and the recommendations of the Advisory Board on Compensation Claims, the Secretary-General alters his original decision in favour of the claimant, the United Nations will bear the medical fees and incidental expenses; if the original decision is sustained, the claimant shall bear the medical fees and the incidental expenses of the medical practitioner whom he selected and half of the medical fees and expenses of the third medical practitioner on the medical board. The balance of the fees and expenses shall be borne by the United Nations;

(e) Whenever an appeal under this article involves also an appeal against a decision of the Joint Staff Pension Board, the medical board established under the Regulations and Rules of the Joint Staff Pension Board and such medical board's report shall be utilized to the extent possible for the purposes of this article.

VII. Personal Liability:

Personal liability already exists for cases of gross negligence resulting in financial loss to the Organization, in administrative instruction ST/AI/2004/3 and according to the latest SG report A/61/342 no cases have been filed to date, what other cases are proposed to be included?

The procedures set out in ST/AI/2004/3 apply only to financial losses resulting from gross negligence. Those procedures would, therefore, not be made applicable to instances which do not rise to the level of gross negligence. Such cases would be addressed through performance evaluation mechanisms and could justify several types of administrative action, including imposition of a reprimand, withholding of salary increment or non-renewal of appointment. Tools for ensuring accountability of staff members, including managers, will be enhanced in the new system of internal justice, through several means, including the management evaluation function proposed in the Secretary-General's Note (A/61/758).

VIII. Class Actions:

The jurisdiction proposed under the new system envisages actions presented by a staff association on behalf of itself or of its members. How are staff associations formed (are they just staff unions?), what other document besides the staff rules and regulations are they governed by, and what are their rights and duties?

The governing provision is staff regulation 8.1, which reads:

(a) The Secretary-General shall establish and maintain continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other personnel policies;

(b) Staff representative bodies shall be established and shall be entitled to initiate proposals to the Secretary-General for the purpose set forth in subparagraph (a) above. They shall be organized in such a way as to afford equitable representation to all staff members, by means of elections that shall take place at least biennially under electoral regulations drawn up by the respective staff representative body and agreed to by the Secretary-General.

The general practice for members of the staff at a particular duty station is to prepare and adopt statutes and rules which will govern their activities. These statutes typically include "electoral regulations", which are subject to agreement by the Secretary-General. This is required in order for management to be confident that the staff representative body represents all staff members at the duty station.

ST/AI/293 sets out the facilities to be provided to staff representatives.

Resolution 51/226, Section II, recalled that the functions of elected staff representatives are official. With respect to the release of some staff representatives from their regular functions to allow them to discharge their staff representational activities, the resolution recognized that staff representatives are entitled to an opportunity for career advancement and decided that the period of their continuous release, on a full-time or a part-time basis, shall not exceed four years.

IX. What are the current status and terms of reference of the Conduct and Discipline Teams in Peacekeeping missions and the Boards of Inquiry?

The issues of disciplinary matters, investigations and proposed delegated authority to offices-away-from headquarters and field missions will be taken up in an intersessional working group of the Staff-Management Coordination Committee in the coming month. The Secretary-General will report back to Member States on the outcome of these discussions and any further proposals.

The establishment of Conduct and Discipline teams at Headquarters and within DPKO missions came out of a need to address conduct and discipline issues in United Nations peacekeeping operations, including the implementation of General Assembly reforms to eliminate sexual exploitation by peacekeeping personnel.

Currently, the headquarters conduct and discipline team maintains global oversight on the state of discipline in all peacekeeping operations and provides overall direction for conduct and discipline issues in field missions operational and policy issues. The conduct and discipline teams in peacekeeping operations act as principal advisers to heads of mission on all conduct and discipline issues involving all categories of peacekeeping personnel in the missions. The teams advise the head of mission on establishing measures to prevent misconduct, enforcing United Nations standards of conduct and ensuring remedial action where misconduct has occurred. Additionally, the teams receive, assess and refer allegations of misconduct for appropriate action, maintain a comprehensive database to track and report all cases of misconduct in the mission, and provide technical advice to mission leadership on United Nations rules and procedures relating to misconduct. Teams also liaise with investigative entities on misconduct allegations and cases and assist in capacity-building on conduct and discipline issues. Finally, the teams provide content to public information components on conduct and discipline issues, liaise with DPKO on internal and external evaluations, including audits on conduct and discipline, and liaise with Member States, other UN entities, governmental representatives, non-governmental organizations and other relevant actors in the mission on policies, procedures, and guidelines on conduct and discipline issues as well as misconduct cases.

Conduct and discipline personnel are now deployed in the following peace operations: Afghanistan (**UNAMA**), Burundi (**BINUB**), Côte d'Ivoire (**UNOCI**), Cyprus (**UNFICYP**), the Democratic Republic of the Congo (**MONUC**), Haiti (**MINUSTAH**), Kosovo (**UNMIK**), Lebanon (**UNIFIL**), Liberia (**UNMIL**), Sierra Leone (**UNIOSIL**), Sudan (**UNMIS**), Timor-Leste (**UNMIT**) and Western Sahara (**MINURSO**). Some conduct and discipline teams are responsible for more than one peacekeeping operation in their region. The team in Afghanistan (**UNAMA**) is also responsible for India/Pakistan (**UNMOGIP**). The team in Lebanon (**UNIFIL**) is also responsible for Brindisi (**UNLB**), Cyprus (**UNFICYP**), Golan Heights (**UNDOF**), and Jerusalem (**UNTSO/UNSCO**).

A coordinated approach has been taken by the United Nations system during the development and implementation of the zero-tolerance policy regarding sexual exploitation and abuse. With regard to CDT relationships with other functions, other mission components play important but limited roles in addressing conduct and discipline issues, largely restricted to the implementation of policies on conduct issues and the administrative tasks associated with misconduct cases. Conduct and discipline teams in missions liaise closely with all these functions in a mission on a wide variety of activities relating to conduct and discipline.

All mission conduct and discipline teams report directly to Heads of Mission. The Head of Mission may choose to delegate the day-to-day management of the Mission Team to the Chief of Staff. A direct reporting line from the conduct and discipline team to the Head of Mission reflects the ultimate accountability of the Head of Mission for ensuring good conduct and discipline by all United Nations peacekeeping personnel in his/her mission.

Regarding the Boards of Inquiry (BOIs), these are an essential management tool to ensure proper accountability, develop policies and guidance and identify best practices to avoid recurrence of serious incidents and improve the management of field operations, including the safety of field personnel. Almost 80 percent of Headquarters Board of Inquiry reports relate to vehicular accidents (particularly those involving death or injuries) and fatalities in the field.

At present, all peacekeeping operations perform BOI functions, and complex multi-dimensional peacekeeping operations tend to have dedicated Board of Inquiry officers or units, depending on their size. BOI Units provide the administrative support for the Boards of Inquiry that are established in missions. They facilitate the process, but do not have any investigators attached to them.

I. UNDP Administrative Review:

Can the Secretariat provide more detail and in chart form how the system of administrative review functions for the UN Funds and Programmes?

UNDP administrative review procedure is based on Staff Rule 111.2 (a):

- (a) A staff member wishing to appeal an administrative decision pursuant to staff regulation 11.1 shall, as a first step, address a letter to the Secretary-General requesting that the administrative decision be reviewed; such letter must be sent within two months from the date the staff member received notification of the decision in writing.
 - (i) If the Secretary-General replies to the staff member's letter, he or she may appeal against the answer within one month of the receipt of such reply;
 - (ii) If the Secretary-General does not reply to the letter within one month in respect of a staff member stationed in New York or within two months in respect of a staff member stationed elsewhere, the staff member may appeal against the original administrative decision within one month of the expiration of the time limit specified in this subparagraph for the Secretary-General's reply.

The same procedure applies to the other Funds and Programmes administered by UNDP (UNIFEM, UNCDF, UNDSS, UNV Bonn, etc.). UNICEF and UNFPA have the same practice as UNDP. The process is outlined in the chart below.

