|  |  |  |
| --- | --- | --- |
| WEATHER CLIMATE WATER | **World Meteorological Organization****EXECUTIVE COUNCIL****Seventy-Sixth Session**27 February to 3 March 2023, Geneva | **EC-76/Doc. 7.1(4)** |
| Submitted by:Chair 2.III.2023**APPROVED** |

**AGENDA ITEM 7: GENERAL, LEGAL, POLICY AND REGULATORY MATTERS**

**AGENDA ITEM 7.1: Constitutional and regulatory matters**

# Legislative Framework for JIU/REP/2020/1Recommendation 7

|  |
| --- |
|  |
|  |

# GENERAL CONSIDERATIONS

### Introduction

1. This document presents draft decisions of the Executive Council recommended by the Task Force on JIU/REP/2020/1, established in 2020 in response to the report of the Joint Inspection Unit (JIU) [JIU/REP/2020/1](https://www.unjiu.org/sites/www.unjiu.org/files/jiu_rep_2020_1_english_0.pdf) titled “Review of the state of the investigation function: progress made in the United Nations system organizations in strengthening the investigation function”. Such report highlighted that no satisfactory process yet is in place in specialized agencies for the investigation of allegations against Executive Heads and recommended that the legislative bodies of United Nations system Organizations that have not yet done so develop and adopt appropriate formal procedures by the end of 2021.

### Contract of the Secretary-General and annexed draft misconduct rules

2. The seventy-fifth session of the Executive Council (EC-75), in [Decision 16 (EC-75)](https://library.wmo.int/doc_num.php?explnum_id=11331#page=123) -Misconduct rules to address JIU/REP/2020/1 Recommendation 7, endorsed the draft misconduct rules[[1]](#footnote-2) to be annexed to the contract of the Secretary-General and requested it to recommend adjustments to the contract of the Secretary-General to bring it in line with the current contracts of the Executive Heads of other specialized agencies, among which the World Intellectual Property Organization (WIPO) and the World Health Organization (WHO). In this regard, TF-R7 advises that the structure of the contract be streamlined and in adherence to the UN common system, including: (a) structured benefits that require residence in the Geneva area in Switzerland;[[2]](#footnote-3) and (b) pension and after service health insurance benefits (ASHI) based on a minimum of four years of service.[[3]](#footnote-4)

### Executive Council Disciplinary Committee

3. To advise the President on matters concerning disciplinary proceedings against the Secretary-General in accordance with the Misconduct Rules to be annexed to the contract of the Secretary-General, the TF-R7 recommends amendments to the rules of procedure for the Executive Council to include the conditions under which the Executive Council Disciplinary Committee would be established and its terms of reference. The draft amendments were reviewed and endorsed by the Policy Advisory Committee, which recommends them for adoption by the Council.

**Expected action**

4. Based on the above, the Executive Council is invited to adopt draft Decision 7.1(4)/1 – Disciplinary Committee of the Executive Council and draft Recommendation 7.1(4)/1 – Legislative framework to implement JIU/REP/2020/1 Recommendation 7.

# DRAFT DECISION

## Draft Decision 7.1(4)/1 (EC-76)

### Disciplinary Committee of the Executive Council

**The Executive Council decides:**

(1) To note with appreciation the progress achieved by the Task Force on JIU/REP/2020/1 Recommendation 7 concerning the establishment of the legislative framework to implement [JIU/REP/2020/1](https://www.unjiu.org/sites/www.unjiu.org/files/jiu_rep_2020_1_english_0.pdf) Recommendation 7;

(2) To also note the advanced stage of negotiation between WMO and the United Nations Office of Internal Oversight Services (OIOS) concerning the provision of investigation services related to complaints of misconduct by the Secretary-General, provided in document [EC-76/INF. 7.1(4)](https://meetings.wmo.int/EC-76/InformationDocuments/Forms/AllItems.aspx);

(3) To accept the recommendation of the Task Force on JIU/REP/2020/1 Recommendation 7 concerning the establishment of the Executive Council Disciplinary Committee, as provided in document [EC-76/INF. 2.5(11)](https://meetings.wmo.int/EC-76/InformationDocuments/Forms/AllItems.aspx);

(4) Pending the approval by the nineteenth World Meteorological Congress (Cg-19) of the contract of the Secretary-General with annexed Misconduct Rules as provided in draft Recommendation 7.1(4)/1 (EC-76), to undertake at the seventy-seventh session (EC-77):

(a) To amend the [*Rules of Procedure for the Executive Council*](https://library.wmo.int/?lvl=notice_display&id=21829#.Y7vjq3bMJ3g)(WMO-No. 1256) with regard to the Executive Council Disciplinary Committee, as provided in [Annex 1](#_Annex_1_to) to the present decision;

(b) To establish the Disciplinary Committee;

(c) To amend the terms of reference of the Audit and Oversight Committee, established by [Resolution 17 (EC-72)](https://library.wmo.int/doc_num.php?explnum_id=10504#page=88) - Terms of Reference and Membership of the Audit and Oversight Committee, concerning their advisory role to the President and the Disciplinary Committee with regard to the disciplinary process established by the misconduct rules annexed to the contract of the Secretary-General and its outcome, as provided in [Annex 2](#_Annex_2_to) to the present decision.

See [EC-76/INF. 7.1(4)](https://meetings.wmo.int/EC-76/InformationDocuments/Forms/AllItems.aspx) for more information.

See [Annex 1](#_Annex_1_to) and [Annex 2](#_Annex_2_to) to the present decision.

\_\_\_\_\_\_\_

Decision justification: [Decision 17 (EC-73)](https://library.wmo.int/doc_num.php?explnum_id=11008#page=546) – Consideration of reports of oversight bodies, [Decision 4 (EC-74)](https://library.wmo.int/doc_num.php?explnum_id=11139#page=28) – Response and course of action for the recommendations of [JIU/REP/2020/1](https://www.unjiu.org/sites/www.unjiu.org/files/jiu_rep_2020_1_english_0.pdf) and [JIU/REP/2021/1](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/103/15/PDF/G2110315.pdf?OpenElement), [Decision 16 (EC-75)](https://library.wmo.int/doc_num.php?explnum_id=11331#page=123) – Misconduct rules to address [JIU/REP/2020/1](https://www.unjiu.org/sites/www.unjiu.org/files/jiu_rep_2020_1_english_0.pdf) Recommendation 7.

## Annex 1 to draft Decision 7.1(4)/1 (EC-76)

## Executive Council Disciplinary Committee

*[Amendments to the* [*Rules of Procedure for the Executive Council*](https://library.wmo.int/?lvl=notice_display&id=21829#.Y7vjq3bMJ3g) *(WMO-No. 1256) to be adopted at EC-77]*

**10 EXECUTIVE COUNCIL DISCIPLINARY COMMITTEE**

**10.1 Establishment of the Executive Council Disciplinary Committee**

10.1.1 The Executive Council Disciplinary Committee (hereafter known as “the Committee”) shall be established to assist the President on the application of the disciplinary process as outlined in the Annex to the Contract of the Secretary-General (hereafter known as “the Annex”).

10.1.2 In the circumstances in which allegations of misconduct have been raised against the Secretary-General, the Committee shall provide, pursuant to the Annex, guidance and be consulted, by the President, at all times during the currency of any investigation and in the determination of any appropriate sanction.

10.1.3 The Committee shall be comprised of six principal members selected by Executive Council. A Chair shall be selected by the principal members of the Committee.

10.1.4 The members of the Committee shall serve for a period of two years. No member of the Committee shall serve for more than two consecutive periods and must remain members of the Executive Council to retain eligibility.

10.1.5 No more than one member of the Executive Council from each Region shall be selected to serve on the Committee.

10.1.6 The presence of five members of the Committee shall be required to constitute a quorum.

10.1.7 Decisions of the Committee are taken by majority vote.

**10.2 Process for appointment of members to the Committee**

10.2.1 The President of WMO will write to members of the Executive Council advising them of the opportunity to nominate themselves for appointment to the Committee.

10.2.2 The President will review the nominations and submit a list of candidates to the Executive Council ensuring all Regions are represented in such a list.

10.2.3 The Executive Council will select members of the Committee from the list compiled by the President. The Executive Council will authorize the President to fill any positions that fall vacant during the intersessional period using the list approved by the Executive Council ensuring that the membership includes all six regions.

**TERMS OF REFERENCE OF THE EXECUTIVE COUNCIL DISCIPLINARY COMMITTEE**

**1. Terms of Reference**

1.1 The Executive Council Disciplinary Committee (hereafter known as “the Committee”) Terms of Reference are intended to enhance, and not conflict with the Annex to the Contract of the Secretary-General (hereafter known as “the Annex”).

1.2 To the extent these Terms of Reference may conflict with the Annex, the Annex shall take precedence. These Terms of Reference are an internal document for use solely in the Committee's discharge of its responsibilities.

**2. Establishment and Purposes**

2.1 The Committee is established in accordance with and for the purposes set forth in, the Annex.

**3. Appointment of Members**

3.1 The Committee shall be composed of six members, including the Chair, from each Region all of whom shall be members of the Executive Council. The Committee shall strive to ensure gender balance in its composition.

3.2 The six members of the Executive Council may select their alternate in circumstances in which they are not able to participate in the Committee.

3.3 The selection of the Chair of the Committee shall be determined through consensus. If the Committee is unable to achieve such a consensus in the selection of a Chair, then the President of WMO shall select the Chair.

**4. Authority**

4.1 The Committee has authority to:

(a) Refer to the appropriate Investigative Entity all complaints concerning allegations of misconduct committed by the Secretary-General;

(b) Convene the Committee as necessary to consider requests for consultation or recommendations from the President of WMO pursuant to the Annex;

(c) Provide recommendations to the President of WMO pursuant to the activities referenced in the Annex;

(d) Seek advice, in consultation with the President of WMO, from the Audit and Oversight Committee;

(e) Assure adherence to highest standards of confidentiality and due process in all proceedings;

(f) Engage in any other necessary activities to further its purposes and perform its assigned functions.

**5. Meetings**

5.1 The Committee will meet as necessary at a time and location to be established by the Chair. Such meetings may take place in-person or by electronic means.

5.2 Insofar as candid expression of opinion is essential to the effective functioning of the Committee, all meetings of the Committee will be conducted by way of in camera sessions.

5.3 Five members of the Committee shall constitute a quorum.

**6. Conflict of Interest**

6.1 No member of the Committee may act as agent, counsel or advocate in any case presented to it.

6.2 No member of the Committee may participate in the decision of any case in which he/she is of the same nationality as the complainant(s), witness(es) or of the Secretary-General.

6.3 No member of the Committee may participate in the decision of any case in which he/she has an interest financially or otherwise in the outcome of the process.

6.4 Each member of the Committee shall, before taking up his/her duties, make a solemn declaration before the President of WMO that he or she will exercise his/her powers impartially and conscientiously.

6.5 Members of the Committee are required to adhere to the WMO Code of Conduct and disclose a potential or actual conflict of interest to the Chair of the Committee as soon as possible after being aware that such a potential or actual conflict exists. The Chair shall bring this to the attention of the Committee who will analyse the potential conflict of interest without the member(s) present. The Committee may at any time request guidance from the Audit and Oversight Committee with regard to assessing potential or actual conflicts of interest.

6.6 If the Committee determines that the member(s) has or have a conflict of interest or appearance of conflict of interest on the matter, the affected member(s) shall not participate in the discussion on the matter, nor vote on the matter.

6.7 If one or more of the members of the Committee declares or has been deemed to have a conflict of interest by the Committee resulting to their exclusion and leading to the absence of a quorum, the Chair will ask the President of WMO to appoint an additional member(s) from the Executive Council to complete the formation of the Committee.

6.8 In circumstances in which the Chair declares or has been deemed to have a conflict of interest by the Committee, the remaining members of the Committee shall select a new Chair from the Committee members to complete the formation of the Committee. If the Committee is unable to achieve such a consensus in the selection of a Chair, then the President of WMO shall select the Chair.

6.9 As a deliberative body, the Committee will reach decisions and take votes only after full discussion, as determined by the Chair of the Committee.

6.10 Due to the high level of objectivity demanded of Committee members, reasonable costs incurred by Committee members in attending in-person meetings of the Committee will be reimbursed by the Secretariat.

**7. Voting**

7.1 Pursuant to General Regulation 41 and 47, all decisions of the Committee shall be decided by a simple majority of the votes cast for and against. If an equal number of votes are cast for and against any recommendation, the recommendation shall be regarded as lost.

**8. Confidentiality**

8.1 Members of the Committee shall respect the confidentiality of consultations and deliberations as they relate to their functions pursuant to the Annex. As a result, members of the Committee must not disclose, distribute, share or publish any information raised during its sessions or provided to them as part of their deliberations.

8.2 Members of the Committee must return or destroy all documents given to them as part of their deliberations at the conclusion of the disciplinary process.

8.3 The duties of confidentiality under these Terms of Reference remain in force until such a time as determined by Congress.

**9. Inquires**

9.1 All inquiries addressed to members of the Committee shall be referred to the Investigative Entity as prescribed in the Annex.

**~~10~~11. Action to be taken by the President on behalf of the Executive Council**

[…]

**~~11~~12. Review of past resolutions and subsidiary bodies of the Executive Council**

[…]

\_\_\_\_\_\_\_\_\_\_

## Annex 2 to draft Decision 7.1(4)/1 (EC-76)

## Terms of Reference of the Audit and Oversight Committee

*[Amendments to the Terms of Reference of the Audit and Oversight Committee, established by* [*Resolution 17 (EC-72)*](https://library.wmo.int/doc_num.php?explnum_id=10504#page=88)*, recommended by the Audit and Oversight Committee and to be adopted at EC-77]*

**2. Responsibilities and duties**

(3) The Audit and Oversight Committee shall discharge its mandate under these terms of reference through the following responsibilities and duties:

[…]

(r) Assist and advise the WMO President and Executive Council Disciplinary Committee, as requested, on the disciplinary process or any associated points of law as established by the misconduct rules annexed to the contract of the Secretary-General.

(s) Assist and advise the WMO President and Executive Council Disciplinary Committee, as requested, on (a) assessing the investigation report and supporting information and any comments from the Secretary-General; (b) the recovery of financial losses suffered by the Organization; and (c) assessing potential or actual conflicts of interest of members of the Executive Council Disciplinary Committee;

(~~r~~t) Perform any other duties consistent with the mandate as requested by the Executive Council.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# DRAFT RECOMMENDATION

## Draft Recommendation 7.1(4)/1 (EC-76)

### Legislative framework to implement JIU/REP/2020/1 Recommendation 7

THE EXECUTIVE COUNCIL,

**Recalling**:

(1) [Decision 17 (EC-73)](https://library.wmo.int/doc_num.php?explnum_id=11008#page=546) – Consideration of reports of oversight bodies,

(2) [Decision 4 (EC-74)](https://library.wmo.int/doc_num.php?explnum_id=11139#page=28) – Response and course of action for the recommendations of [JIU/REP/2020/1](https://www.unjiu.org/sites/www.unjiu.org/files/jiu_rep_2020_1_english_0.pdf) and [JIU/REP/2021/1](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/103/15/PDF/G2110315.pdf?OpenElement),

(3) [Decision 16 (EC-75)](https://library.wmo.int/doc_num.php?explnum_id=11331#page=123) – Misconduct rules to address [JIU/REP/2020/1](https://www.unjiu.org/sites/www.unjiu.org/files/jiu_rep_2020_1_english_0.pdf) Recommendation 7,

**Reaffirming** the importance for the Organization to adopt appropriate policies and formal procedures for the investigation of complaints of misconduct by Executive Heads and adopt appropriate policies,

**Welcoming** the establishment of a memorandum of understanding between WMO and the United Nations Office of Internal Oversight Services (OIOS) concerning the provision of investigation services related to complaints of misconduct by the Secretary-General, provided in document [EC-76/INF. 7.1(4)](https://meetings.wmo.int/EC-76/InformationDocuments/Forms/AllItems.aspx),

**Noting** the opportunity to review the contract of the Secretary-General to bring it in line with the current contracts of the Executive Heads of other specialized agencies,

**Having examined** the recommendations of the Task Force on JIU/REP/2020/1, provided in document [EC-76/INF. 2.5(11)](https://meetings.wmo.int/EC-76/InformationDocuments/Forms/AllItems.aspx),

**Having considered** Recommendation 10 PAC-2(2022), provided in document [EC‑76/INF. 2.5(1–2)](https://meetings.wmo.int/EC-76/InformationDocuments/Forms/AllItems.aspx),

**Recommends** to Congress the adoption of the contract of the Secretary-General with annexed Misconduct Rules throughthe draft resolution provided in the [annex](#Annex_to_draft_Recommendation) to the present Recommendation.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Annex to draft Recommendation 7.1(4)/1 (EC-76)

**Draft Resolution ##/1 (Cg-19) – Secretary-General’s contract**

THE WORLD METEOROLOGICAL CONGRESS,

**Recalling**:

(1) Article 21 (a) of the Convention of the World Meteorological Organization,

(2) [Resolution 86 (Cg-18)](https://library.wmo.int/doc_num.php?explnum_id=9827/#page=289) – Secretary-General’s contract

**Having examined** Recommendation 7.1(4)/1 (EC-76),

**Having agreed** Recommendation 7.1(4)/1 (EC-76),

**Invites** members of the Executive Council to submit to the President nominations for appointment to the Disciplinary Committee;

**Decides** that the terms of the appointment of the Secretary-General should be as set forth in the contract, inclusive of annexed misconduct rules, as annexed to the present resolution and to be annexed to the *Staff Regulations*;

**Requests** the Executive Council, at its seventy-seventh session (EC-77):

(a) To amend the [*Rules of Procedure for the Executive Council*](https://library.wmo.int/?lvl=notice_display&id=21829#.Y7vjq3bMJ3g)(WMO-No. 1256) with regard to the Executive Council Disciplinary Committee;

(b) To establish the Disciplinary Committee;

(c) To amend the terms of reference of the Audit and Oversight Committee concerning their advisory role to the President and the Disciplinary Committee.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Annex to draft Resolution ##/1 (Cg-19)

**Contract of the Secretary-General**

THIS CONTRACT is entered into this (…) day of (….) 2023

between

the WORLD METEOROLOGICAL ORGANIZATION (hereinafter called ‘the Organization’ or ‘WMO’)

and

Mrs/Ms/Mr (……….)

WHEREAS:

A. Article 21 of the Convention of WMO provides that the Congress shall appoint the Secretary-General of WMO.

B. General Regulation 150 provides that a Secretary-General may serve a maximum of two four-year terms.

C. The term of the appointment may end according to the relevant provisions as set out in the WMO Convention, this contract including its Annexes and the Staff Regulations and Rules of WMO.

D. The WMO Congress appointed the Secretary-General on (………...) 2023.

IT IS HEREBY AGREED AS FOLLOWS:

**Term of appointment**

1. The appointment of (Mrs/Ms/Mr ………) as Secretary-General of WMO shall be for a fixed-term of four years commencing on 1 January 2024.

**Salary and allowances**

2. Throughout the term of the appointment, the Organization shall pay the Secretary-General:

(1) An annual net salary equivalent to the highest salary payable to the Head of a Specialized Agency of the United Nations which has its headquarters in Geneva;

(2) An annual representation allowance of 62 870 Swiss francs, which will be updated annually according to the Consumer Price Index (CPI) for Geneva; and

(3) An annual housing allowance which shall only be paid towards renting of housing in Switzerland (Canton of Geneva) of 77 145 Swiss francs, which will likewise be updated annually according to the CPI for Geneva.

3. The Secretary-General shall be entitled to appropriate security protection, where necessary.

**Pension**

4. The Secretary-General shall be entitled to participate in the United Nations Joint Staff Pension Fund, in accordance with the Regulations and Rules of that Fund and with the pensionable remuneration determined in accordance with the methodology of the General Assembly of the United Nations.

**Application of the Staff Regulations and Rules and Annex**

5. Except as may be otherwise modified herein, the Secretary-General shall have the rights and assume the obligations which are provided for in the Staff Regulations and Staff Rules of WMO.

6. The Annex R*ules of Procedure covering allegations of misconduct against the Secretary-General* shall form an integral part of this contract.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED THIS CONTRACT ON THE (……) DAY OF (……) 2023

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Prof. Gerhard Adrian (Mrs/Ms/Mr ……………….)

WMO President

### ANNEX TO THE CONTRACT

### Unsatisfactory conduct, Investigations and the Disciplinary Process

### Section 1 – Scope of application

1.1 The present instruction applies to the Secretary-General of the World Meteorological Organization (WMO).

### Section 2 – Definitions

2.1 For the purpose of the present instruction:

(a) The “President” is the President of WMO;

(b) The “Secretary-General” is the Secretary-General of WMO appointed by Congress pursuant to Article 21 of the WMO Convention;

(c) “Administrative measures” means an oral or written reprimand;

(d) “Managerial action” means an oral or written caution, warning or advisory communication;

(e) “Investigating entity” means an Investigative Entity within the United Nations system, such as the Office of Internal Oversight Services (OIOS), or a similar expert entity, which is to be established by agreement with WMO upon the approval of the Executive Council;

(f) “Investigation” means a process of gathering information to establish facts in order to allow for a determination as to whether the Secretary-General is engaged in suspected unsatisfactory conduct. Investigations are administrative in nature;

(g) “Preliminary assessment” means the review and analysis of the allegation of unsatisfactory conduct in order to determine whether there are sufficient grounds to initiate an investigation;

(h) “Executive Council Disciplinary Committee” means the committee of six (6) members of the Executive Council designated by the Executive Council to advise the President on matters concerning disciplinary proceedings against the Secretary-General into Unsatisfactory Conduct;

(i) “Executive Council” means the executive body of the Organization responsible to Congress;

(j) “Audit and Oversight Committee” means the body established pursuant to [Resolution 17 (EC-72)](https://library.wmo.int/doc_num.php?explnum_id=10504#page=88) tasked to promote proper governance and high ethical standards;

(k) “Disciplinary measures” means those sanctions outlined in WMO Staff Rule 1101.2;

(l) “Discrimination” means any unfair treatment or arbitrary distinction based on a person’s race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, social origin or other status. Discrimination may be an isolated event affecting one person or a group of persons similarly situated or may manifest itself through harassment or abuse of authority;

(m) “Harassment” means any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work environment. Harassment normally implies a series of incidents;

(n) “Sexual Harassment” means any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both males and females can be either the victims or the offenders;

(o) “Abuse of authority” means improper use of a position of influence, power or authority against another person. This is particularly serious when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority;

(p) “Sexual exploitation” means any actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;

(q) “Sexual abuse” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;

(r) “Retaliation” means any direct or indirect detrimental action that adversely affects the employment or working conditions of an individual, where such action has been recommended, threatened or taken for the purpose of punishing, intimidating or injuring an individual because that individual engaged in a protected activity;

(s) “Protected Activity” means acts relating to (i) reporting of the failure of the Secretary-General to comply with his/her obligations under the Convention and associated WMO Regulations and Rules; (ii) Cooperating in good faith with a duly authorized investigation or audit.

### Section 3 – Unsatisfactory conduct and misconduct

#### Unsatisfactory Conduct

3.1 Unsatisfactory conduct is any conduct where the Secretary-General fails to comply with his/her obligations under the WMO Convention, its Regulations and Rules, Charter of the United Nations or to observe the standards of conduct expected of an international civil servant. Unsatisfactory conduct includes conduct of sufficient gravity that rises to the level of misconduct.

3.2 A determination that the unsatisfactory conduct is of sufficient gravity to rise to the level of misconduct may lead to the imposition of disciplinary measures, financial recovery, administrative measures and/or managerial action. A determination that the unsatisfactory conduct is not of sufficient gravity to rise to the level of misconduct may lead to administrative measures and/or managerial action.

#### Misconduct

3.3 Misconduct is any conduct where the Secretary-General fails to comply with his/her obligations under the WMO Convention, its Regulations and Rules, Charter of the United Nations or to observe the standards of conduct expected of an international civil servant and may be of sufficient gravity to lead to the institution of a disciplinary process and the imposition of disciplinary measures for misconduct.

3.4 Misconduct for which disciplinary measures may be imposed includes, but is not limited to:

(a) Acts or omissions in conflict with the general obligations of staff members set forth in Article 1 of WMO Staff Regulations and Rules and associated Standing Instructions;

(b) Unlawful acts (e.g. theft, fraud, the possession or sale of illegal substances, smuggling) on or off WMO or associated United Nations premises;

(c) Misrepresentation, forgery, false certification and/or failure to disclose a material fact in connection with any WMO claim or benefit;

(d) Discrimination, harassment, including sexual harassment, abuse of authority and retaliation;

(e) Misuse of WMO property, including equipment or files, and electronic files;

(f) Misuse of office, including breach of confidentiality and abuse of WMO privileges and immunities;

(g) Sexual exploitation and sexual abuse; and

(h) Acts or behaviour that would discredit WMO.

3.5 Misconduct may also include assisting in, or contributing to, the commission of misconduct.

### Section 4 – Reporting information about suspected unsatisfactory conduct

4.1 Reports of allegations of unsatisfactory conduct against the Secretary-General will be sent directly to OIOS as the Investigative Entity. Reports of allegations of unsatisfactory conduct against the Secretary-General will be sent to the Investigative Entity in accordance with instructions provided on the public website of the Investigative Entity and WMO. The Investigative Entity may receive information about unsatisfactory conduct from both staff members or non-staff members. This includes any information obtained during an investigation, a disciplinary process, an audit, a management enquiry or review, a judgment from a national court or information from another Organization.

4.2 Staff members or non-staff members shall not be retaliated against for reporting any breach of the Organization’s Regulations and Rules to the Investigative Entity whose responsibility it is to undertake duly authorized audits and investigations.

4.3 Information about unsatisfactory conduct shall be brought to the attention of the Investigative Entity.

4.4 Information received from either a staff member or a non-staff member alleging unsatisfactory conduct by the Secretary-General should contain sufficient details for it to be assessed under the present instruction, such as:

(a) A detailed description of the unsatisfactory conduct;

(b) Where and when the unsatisfactory conduct occurred;

(c) The names of potential witnesses to the unsatisfactory conduct; and

(d) All available supporting documentation.

### Section 5 – Preliminary assessment of the information about unsatisfactory conduct

5.1 The Investigative Entity retains the ultimate authority to decide whether the information of unsatisfactory conduct received merits any action.

5.2 Upon receiving allegations of misconduct, the Investigative Entity will promptly log the complaint and, where possible within three weeks of receiving such allegations, undertake a preliminary assessment as to whether or not an investigation is warranted. In undertaking this preliminary assessment, the Investigative Entity may consider the following factors:

(a) Whether the unsatisfactory conduct is a matter that could amount to misconduct;

(b) Whether the provision of the information of alleged misconduct is made in good faith and is sufficiently detailed that it may form the basis for an investigation;

(c) Whether there is a likelihood that an investigation would reveal sufficient evidence to require further action;

(d) Any other factor(s) reasonable in the circumstances.

5.3 Upon conclusion of the preliminary assessment, the Investigative Entity shall decide to either:

(a) Initiate an investigation of all or part of the matters raised in the information about unsatisfactory conduct; or

(b) Not initiate an investigation.

5.4 In cases where the Investigative Entity decides not to initiate an investigation, they will close the matter without further investigation.

5.5 If the Investigative Entity determines that further investigation is warranted then the Investigative Entity shall carry out such investigation. The Investigative Entity will notify the President that such a matter has been referred. The President shall then notify the Executive Council Disciplinary Committee.

### Section 6 – Investigations

#### Purpose and scope

6.1 The purpose of an investigation is to gather information to establish the facts that gave rise to the allegation of unsatisfactory conduct. The investigator(s) should pursue all lines of enquiry as considered appropriate and collect and record information, both inculpatory or exculpatory, in order to establish the facts. The investigator(s) shall not make a legal determination about the established facts.

#### Duty to cooperate

6.2 The Secretary-General and staff members are required to fully cooperate with all duly authorized investigations and to provide any records, documents, information and communications technology equipment or other information under the control of the Organization, Secretary-General or under the staff member’s control, as requested. Failure to cooperate may be considered unsatisfactory conduct that may amount to misconduct.

#### Investigation

6.3 Following a decision to initiate an investigation, the following due process provisions shall apply.

#### Interviews

6.4 The investigator(s) may digitally record an interview. Interviewees are not permitted to record their interviews. If an investigation report is to be transmitted to the President for possible disciplinary action, a written record, such as transcripts of the interviews of the subject(s) of the investigation and key witnesses and synopses of the interviews of the other interviewees, shall be prepared of digitally recorded interviews and transmitted with the investigation report. During the investigation stage the President shall keep the Disciplinary Committee of the Executive Council informed.

6.5 Where an interview is not digitally recorded, a record of the interview, such as a synopsis, written statement or record of questions and answers, shall be prepared and shared with the interviewee for the interviewee’s signature. Interviewees shall be given a reasonable opportunity to review and provide comments on the record of interview, including comments regarding the interview process, before signing. If the interviewee does not review and/or sign the record of interview, the reasons given, if any, shall be noted on the record of interview or in the investigation report. The interviewee is not normally entitled to retain a copy of the record of interview.

6.6 Interviewees are not entitled to the presence of a third party, including counsel, during an interview. If the investigator(s) determine that an interviewee has special needs, such as being under 18 years old, a “support person” may be present. A support person’s role shall be limited to facilitating the conduct of the interview, where appropriate and not to advocate on behalf of the interviewee or otherwise participate in the interview. Interviews should not be rescheduled owing to the unavailability of a support person. The investigator(s) will determine whether an interpreter is required for an interview.

6.7 The Secretary-General who is identified as the subject of an investigation shall be:

(a) Permitted to be accompanied by a person selected by the Secretary-General to act as an observer during an interview. An observer shall not participate in any way in the interview, including by speaking or gesturing in any manner. If the observer does not abide by this requirement, the observer will be removed from the interview. An observer may take notes of the interview in handwritten form and must provide a copy of such notes to the investigator(s). The Secretary-General shall ensure that the observer is available at the time scheduled. Interviews shall not be rescheduled owing to the unavailability of the observer;

(b) Informed in writing, prior to or at the start of the interview, that the Secretary-General is the subject of an investigation and of the nature of the alleged unsatisfactory conduct;

(c) Informed of the name(s) of the investigator(s) in writing prior to the start of the interview;

(d) Given a reasonable opportunity, during the interview(s), to provide the Secretary-General’s version of the events and circumstances relevant to the allegations against the Secretary-General and any other information that the Secretary-General considers relevant;

(e) Given a reasonable opportunity to provide the investigator(s) with names and contact details of persons who may be in possession of relevant information about the matter under investigation;

(f) Given a reasonable opportunity to submit, within two weeks of the date of an interview, a written statement providing further information about the matters under investigation and/or the matters covered during the interview, together with relevant documentary information. Requests for extensions of time for submitting such statements must be made in writing to the investigator(s) and must include the reason for the requested extension, failing which it will be concluded that the subject has declined to provide a written statement; and

(g) Provided with a copy of the digital recording of the interview, if the interview was digitally recorded, and a written record, if available.

#### Access to WMO records

6.8 An investigator shall have direct and prompt access to all records, documents or other information under the control of the Organization.

6.9 An investigator shall not have access to confidential records (including documents, communications and other information) in the possession of the Ethics Office, the Office of the United Nations Ombudsman and Mediation Services, the Office of Staff Legal Assistance or the Medical Services Division, provided that such records were prepared or obtained through a proper exercise of the listed office’s official functions. Should an investigator inadvertently obtain such records (e.g. through a review of the Secretary-General’s email records or computer hard drive), they shall be removed from the investigative record and shall not be relied upon in the context of the investigation or referenced in the investigation report.

#### Access to non- WMO records

6.10 Where applicable, documentation obtained from national authorities or outside Organizations may form part of the investigative record.

#### Investigation report

6.11 An investigation report shall be prepared at the conclusion of the investigation. It shall contain an analysis of the information obtained during the investigation and shall be accompanied by copies of all supporting documentation, which may include records of interviews, any written statements provided by the subject of the investigation or by other witnesses, documents and/or photographs or other reproductions of any physical evidence.

6.12 The investigation report shall include a section setting out the factual findings resulting from the investigation.

6.13 In cases where the investigation includes a finding of financial loss to the Organization as a result of the actions of the Secretary-General, the investigation report should, where possible, specify the amount of financial loss attributable to the Secretary-General and include a computation of the loss. This information may be used to effect financial recovery from the Secretary-General pursuant to the disciplinary measures listed in WMO Staff Rule 1101.2.

6.14 Adverse inference may be drawn in situations in which the Secretary-General:

(a) Fails to attend one or more interviews without a satisfactory explanation;

(b) Provides false information or omits or withholds material information;

(c) Fails, during an investigation, to mention a matter or provide information without a satisfactory explanation, which the Secretary-General subsequently seeks to rely on during a disciplinary process;

(d) Refuses to provide the investigator(s) with requested information or documentation that the Secretary-General has or can reasonably obtain or access.

6.15 If the Secretary-General is on certified sick leave, the investigative and disciplinary processes shall normally proceed as envisaged in the present Annex, subject to consultation with the Medical Services Division. If the Secretary-General is on any other leave, including maternity and paternity leave, the investigative and disciplinary processes should normally proceed as envisaged in the present Annex.

### Section 7 – Interim Measures

#### Administrative Leave

7.1 The Secretary-General may be placed on administrative leave with or without pay at any time after an allegation of suspected unsatisfactory conduct and pending the completion of the disciplinary process. The period of administrative leave may continue until the completion of the disciplinary process. Such action is without prejudice to the rights of the Secretary-General and does not constitute a disciplinary measure. A Secretary-General placed on administrative leave shall be given a written statement of the reason(s) for such leave and shall be informed of its likely duration.

7.2 A decision to place the Secretary-General on administrative leave without pay shall be without prejudice to the continuation of any education grant to which the Secretary-General may be entitled, as well as without prejudice to the continuation of health, dental and life insurance coverage and participation in the United Nations Joint Staff Pension Fund. The amount of pay withheld from the Secretary-General during the period that the Secretary-General is on administrative leave without pay shall be net of all contributions by the Secretary-General and the Organization for maintaining such entitlements and benefits.

#### Administrative Leave with pay

7.3 The decision to place a Secretary-General on administrative leave with pay may be made by the President in consultation with the Executive Council Disciplinary Committee on a recommendation by the Investigative Entity at any time following a report of suspected unsatisfactory conduct and following the Investigative Entity’s determination that at least one of the following circumstances is met:

(a) The Secretary-General is unable to continue effectively performing the Secretary-General’s functions, given the nature of those functions;

(b) Continued service by the Secretary-General would create a risk that the Secretary-General could destroy, conceal or otherwise tamper with potential evidence, or interfere in any way with the investigation or disciplinary process, including by retaliating against individuals or intimidating a witness;

(c) The continued presence of the Secretary-General on the Organization’s premises could constitute a security or financial risk to the Organization and/or its personnel, or could otherwise prejudice the interests or reputation of the Organization;

(d) The Secretary-General’s continued presence at the office could have a negative impact on the preservation of a harmonious work environment;

(e) There is a risk of repetition or continuation of the unsatisfactory conduct.

#### Administrative leave without pay

7.4 The Secretary-General may be placed on administrative leave without pay by the President in consultation with the Executive Council Disciplinary Committee on a recommendation by the Investigative Entity when at least one of the following conditions is met:

(a) There are reasonable grounds to believe (probable cause) that the Secretary-General engaged in sexual exploitation and sexual abuse, in which case the placement of the Secretary-General on administrative leave shall be without pay;

(b) There are exceptional circumstances that warrant the placement of the Secretary-General on administrative leave without pay because the unsatisfactory conduct is of such gravity that it would, if established, warrant separation or dismissal and there is information before the President about the unsatisfactory conduct that makes it more likely than not (preponderance of the evidence) that the Secretary-General engaged in the unsatisfactory conduct.

7.5 Provided that at least one of the conditions of section 7.4 is met, the President in consultation with the Executive Council Disciplinary Committee on a recommendation by the Investigative Entity may convert the Secretary-General’s administrative leave with pay to administrative leave without pay at any time pending the conclusion of the disciplinary process.

7.6 If the Secretary-General is placed on administrative leave without pay and either the allegations of misconduct are subsequently not sustained or it is subsequently found that the conduct at issue does not warrant dismissal or separation, any pay withheld shall be restored. The Organization may decide not to restore any pay withheld for the period during which the Secretary-General was placed on administrative leave without pay if the Secretary-General separates from the Organization for any reason prior to the completion of the investigation or disciplinary process, and the matter cannot be pursued as a result of lack of cooperation on the part of the Secretary-General.

#### Notification of placement on administrative leave

7.7 The notice of placement on administrative leave may be communicated to the Secretary-General in hard copy or electronically. Where transmission to the Secretary-General is in hard copy, this shall normally be done by registered mail or by hand.

#### Obligations of the Secretary-General on administrative leave

7.8 The Secretary-General placed on administrative leave shall:

(a) Surrender the grounds pass and any United Nations laissez-passer;

(b) Return any WMO-owned equipment that has been assigned;

(c) Obtain written approval if he/she wishes to enter WMO premises during the period of administrative leave;

(d) Obtain written approval before leaving the duty station during the period of administrative leave;

(e) Immediately provide to the President, and update as necessary during the period of administrative leave, the Secretary-General’s current contact information, including telephone number(s), personal email address(es) and current residential address;

(f) Remain available to be contacted by the Organization through the contact information provided;

(g) Remain available for the purposes of cooperation with an investigation, participate in the disciplinary process and follow any directions and instructions issued the President; and

(h) Request permission to engage in any outside activities.

7.9 Where the President or Investigating Entity has made at least three documented attempts to contact the Secretary-General on administrative leave using the most recent contact information provided, and the Secretary-General does not contact the President or Investigating Entity within three weeks of the last documented attempt, then the matter may proceed to be considered as the Secretary-General having resigned from his post.

### Section 8 – Initial actions on an investigation report

8.1 Where the investigation entity finds that there is no factual basis indicating that the Secretary-General engaged in unsatisfactory conduct, a closure notice shall be provided to the President. The President shall then inform the Secretary-General that the investigation has been closed. The President shall also inform the Executive Council Disciplinary Committee.

8.2 Where the investigation entity finds that there is a factual basis indicating that the Secretary-General engaged in unsatisfactory conduct, they shall submit to the President the investigation report and all relevant supporting documentation, including copies of all written records of interviews and copies of any digital recordings of interviews. The President shall forward such investigative documentation to the Executive Council Disciplinary Committee.

### Section 9 – Disciplinary Process

#### Decision on an investigation report

9.1 Upon receipt of the investigation report, the President in consultation with the Executive Council Disciplinary Committee shall, with assistance of the Audit and Oversight Committee, assess the report and supporting information and any comments from the Secretary-General concerned. The President in consultation with the Executive Council Disciplinary Committee may seek advice from the Audit and Oversight Committee with respect to points of law or process.

9.2 During the assessment, the President in consultation with the Executive Council Disciplinary Committee shall not be constrained by the factual findings of the investigation.

9.3 On the basis of the investigation report, supporting information and any additional information obtained, the President in consultation with the Executive Council Disciplinary Committee shall decide whether to:

(a) Initiate a disciplinary process pursuant paragraph 9.4 of this Annex by issuing written allegations of misconduct;

(b) Take managerial actions and/or administrative measures, if the unsatisfactory conduct, in the view of the President in consultation with the Executive Council Disciplinary Committee, does not rise to the level of misconduct; or

(c) Close the matter; in such a case, the President in consultation with the Executive Council Disciplinary Committee shall inform the Secretary-General.

#### Disciplinary Process

9.4 Following a decision to initiate a disciplinary process, the President in consultation with the Executive Council Disciplinary Committee shall provide the Secretary-General with:

(a) The allegations of misconduct in writing, which should include the specific obligations or standards of conduct that the Secretary-General breached;

(b) Notification of:

(i) The Secretary-General’s right to respond to the allegations of misconduct and to provide any evidence within a specified period in accordance with section 9.7;

(ii) The Secretary-General’s right to seek the assistance of counsel through the Office of Staff Legal Assistance, or from other counsel at the Secretary-General’s own expense; and

(iii) In relevant cases, the possibility of financial recovery if misconduct is established;

9.5 A copy of the investigation report and the relevant supporting documentation shall be provided to the Secretary-General. The copies of such documentation may be subject to any measures, including redaction, adopted to ensure that the interests of the Organization or its staff members, including privileged information and safety and security concerns, are not adversely affected by the disclosure of particular information.

9.6 The allegations of misconduct, investigation report and supporting documentation may be transmitted to the Secretary-General in hard copy or electronically. Where transmission to the Secretary-General is in hard copy, this shall normally be done by registered mail or by hand.

9.7 The Secretary-General shall be given an opportunity to respond in writing to the allegations of misconduct within one month of the date of receipt of the allegations. The Secretary-General may request, in writing, additional time to respond. Any such request must be made prior to the expiration of the deadline and must contain reasons for the request. If no response to the allegations of misconduct is received within the specified time limit, the matter may nevertheless proceed, without further notice to the Secretary-General.

9.8 The President in consultation with the Executive Council Disciplinary Committee may seek further information from any relevant source. Any new additional information received by the President must be provided to the Secretary-General for a further response. The Secretary-General shall be given two weeks to respond to such additional information. The Secretary-General may request, in writing, additional time to respond. Any such request must be made prior to the expiration of the deadline and must contain reasons for the request. If no response on the additional information is received within the specified time limit, the matter may nevertheless proceed, without further notice to the Secretary-General.

9.9 During the disciplinary process, the Secretary-General shall be responsible for including in the comments all information relating to the allegations of misconduct that the Secretary-General wishes the President and the Executive Council Disciplinary Committee to consider.

### Section 10 – Outcome of a disciplinary process

10.1 The applicable standard of proof is:

(a) Clear and convincing evidence, for imposing separation or dismissal of the Secretary-General. This standard of proof is lower than the criminal standard of “beyond a reasonable doubt”; and

(b) Preponderance of the evidence (more likely than not that the facts and circumstances underlying the misconduct exist or have occurred), for imposing any other disciplinary measure.

10.2 On the basis of the investigation report, all supporting documentation and responses from the Secretary-General, the President in consultation with the Executive Council Disciplinary Committee or the Executive Council shall decide whether to:

(a) Take no further action and inform the Secretary-General accordingly;

(b) No longer pursue the matter as a disciplinary case and determine whether to take administrative measures and/or managerial action; or

(c) Impose a disciplinary measure.

10.3 The decision of the President in consultation with the Executive Council Disciplinary Committee or the Executive Council shall be communicated in writing to the Secretary-General.

#### Recovery of financial loss to the Organization

10.4 In conjunction with a decision to impose a disciplinary measure, the President in consultation with the Executive Council Disciplinary Committee may determine whether the actions of the Secretary-General were wilful, reckless or grossly negligent. The President in consultation with the Executive Council Disciplinary Committee may then decide to recover, in part or in full, any financial loss suffered by the Organization. The President in consultation with the Executive Council Disciplinary Committee may consult the Audit and Oversight Committee with respect to points of law or process with respect to the financial recovery.

10.5 If the Secretary-General separates from service before the conclusion of investigative and/or disciplinary processes, the President in consultation with the Executive Council Disciplinary Committee may decide to withhold the estimated financial loss suffered by the Organization from the Secretary-General’s final separation entitlements, until the investigation has been concluded and the findings support the imposition of financial recovery. In cases when the investigative and/or disciplinary processes cannot be finalized owing to the former Secretary-General’s lack of cooperation, the Organization has a right to recover the amount of the financial loss.

### Section 11 – Disclosure of information obtained during an investigation

11.1 All information obtained at any stage during the reporting of unsatisfactory conduct, the preliminary assessment, the investigation and the disciplinary process shall be considered confidential.

11.2 Should Congress or the Executive Council demand information regarding the disciplinary process, a summary of the complaint, with names of the complainant and witness redacted, should be provided together with the investigation outcome.

### Section 12 – Appeals Process

12.1 The Secretary-General may seek to appeal the decision of the President in relation to any sanction received. The process of appeal will be governed pursuant to Staff Rule 1101.3 (c) and (d).

12.2 The Secretary-General shall be considered a staff member for the purposes relating to disciplinary matters pursuant to Article 2 of the United Nations Dispute Tribunal.

12.3 Any finding against the Organization relating to termination of the Secretary-General’s contract shall only result in an award of compensation. No rescission of the contested decision is permissible.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. An additional suggestion of the Task Force is in item 11.2 of the Misconduct Rules. [↑](#footnote-ref-2)
2. This is intended to reflect the emphasis placed by the host government on the necessity that the Secretary-General (SG) should reside within Switzerland for the purposes of privileges and immunities and related protection services. [↑](#footnote-ref-3)
3. ASHI will only be available after a minimum service of 10 years. As far as pensions are concerned, entitlement to a UN pension requires a minimum period of service of 5 years in the UN system. [↑](#footnote-ref-4)