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Forty-third session
Agenda item 117 (b)**ADMINISTRATIVE AND BUDGETARY CO-ORDINATION OF THE
UNITED NATIONS WITH THE SPECIALIZED AGENCIES AND
THE INTERNATIONAL ATOMIC ENERGY AGENCY****Harmonisation of the statutes, rules and practices of the
administrative tribunals of the International Labour
Organisation and of the United Nations****Report of the Secretary-General****I, INTRODUCTION**

1. At its forty-second session, the General Assembly, taking note of the report of the Secretary-General (A/42/328) entitled "Feasibility • establishing a single Administrative Tribunal", requested, by resolution 42/217 of 21 December 1987, that he arrange for consultation among Member States during the first half of 1988 to examine the proposal included in his report and that he invite the Director-General of the International Labour Organisation to be represented at those consultations. That Secretary-General was also requested to report to the General Assembly at its forty-third session on the outcome of those consultations and to present proposals designed to enable the Assembly to conclude its consideration of the item at that session.

2. The present document constitutes the report to the General Assembly on the consultations and sets out the proposals resulting therefrom. The document consists of three parts and three annexes. Part I, Introduction, briefly introduces the subject and the content of the report; part II, Background, is a historical account of the Assembly's prior consideration of and decisions relating to the subject since the Assembly's initial consideration of it almost a decade ago. Part III, Consultations, gives an account of the consultations among Member States and the ILO held, except for the final meeting, during the first half of this year.

3. Annex I contains, in separate columns, three versions of the statute of the United Nations Administrative Tribunal. The first column sets out the existing text, as found in document AT/11/Rev.4; the second column sets out the revised text as had been proposed by the Secretary-General in his report to the forty-second General Assembly session (A/42/321, annex I.A, left column); the third column sets out the revised text resulting from the consultations, indicating new or changed portions (in comparison with the existing text) by underlining.

4. Annex II to the present report sets out, in the same format as annex I, three versions of certain rules of the United Nations Administrative Tribunal proposed for revision. The first column sets out the text of the existing rules as in document AT/11/Rev.4; the second column sets out the revised text as had been proposed by the Secretary-General in his report to the forty-second session of the General Assembly (A/42/328, annex I.B, left column); the third column sets out the revised texts resulting from the consultations, indicating new or changed portions (in comparison with the existing text) by underlining.

5. Annex III contains the content of a draft resolution for the consideration of the General Assembly. This draft constitutes a revision resulting from the consultations of the earlier draft resolution suggested in the report of the Secretary-General to the forty-second session of the General Assembly (A/42/320, annex I.C).

II. BACKGROUND

6. At its thirty-third session, in 1978, the General Assembly became concerned that the jurisprudences of the Administrative Tribunal of the International Labour Organisation and of the United Nations were diverging, which it feared might impact unfavourably on the unity of the common system, and therefore requested the Secretary-General and his colleagues on the Administrative Committee on Co-ordination (ACC) to study the possibility of establishing a single administrative tribunal for the entire common system (para. I.2 of resolution 33/119 of 19 December 1978).

7. At its thirty-fourth session, after having considered a report of the ACC advising the immediate merger of the two existing common system Tribunals but suggesting the purposeful harmonisation and further development of their statutes, rules and practices (see A/C.5/34/31, para. 13), the General Assembly requested the Secretary-General and the ACC to pursue such measures with a view to strengthening the common system with the objective of eventually establishing a single tribunal (decision 34/438 of 17 December 1979).

8. Pursuant to that decision, the Secretary-General engaged in extensive consultations during the next several years with all the various organisations, staff representative bodies and administrative organs concerned. In particular, the following were consulted: the executive heads of all the common system organisations, in particular ILO, as well as of the other organisations participating in the United Nations Joint Staff Pension Fund (UNJSPF), the United Nations Administrative Tribunal and the ILO Administrative Tribunal (ILOAT), the

Registry of the International Court of Justice, the Federation of International Civil Servants Associations (FICSA) and the Co-ordinating Committee of Independent Staff Unions and Associations of the United Nations System (CCISUA), a working group of the Staff Management Co-ordination Committee (SMCC) of the United Nations and the UNJSPF Board.

9. The proposals thus developed were submitted to the General Assembly at its thirty-ninth session (A/C.5/37/7 and Corr.1). On the recommendation of the Fifth Committee, following consultations between its Chairman and the Chairman of the Sixth Committee, the General Assembly decided to defer consideration of the Secretary-General's report to its fortieth session and to consider at that session how to proceed with the ~~re~~ ~~min~~ ~~tion~~ of the matter (decision 39/450 of 18 December 1984).

10. During the following year (1985), the Secretariat held further consultations with the ILO, which had submitted corresponding proposals to its Governing Body. The progress achieved as a result of those consultations was noted in the report of the Secretary-General to the fortieth session (A/40/471). At that session, the General Assembly again decided to defer consideration of the matter until its forty-first session (decision 40/465 of 18 December 1985).

11. On the recommendation of the Fifth Committee, the General Assembly decided at its forty-first session to defer consideration of the entire item on administration and budgetary co-ordination until its forty-second session (decision 41/447 of 5 December 1986). At that session, the Assembly took the decision referred to in paragraph 1 above.

12. Subsequent to the 1986 report of the Secretary-General on this item, the ILO Governing Body established a small tripartite working party to consider the proposed amendments to the statutes of the two Tribunals. That group formulated only a few changes in the proposals relating to ILOAT (which had been set out in the right-hand column of annexes I.A and B to the above-mentioned reports of the Secretary-General). At its 234th session, the Governing Body agreed that those preliminary positions should be brought to the attention of the General Assembly, which was done by means of the Secretary-General's report to the forty-second session (A/42/328, paras. 9 and 56).

III . CONSULTATIONS

13. In accordance with the General Assembly's request that the Secretary-General arrange for consultation on the proposals, the Legal Counsel, on behalf of the Secretary-General, addressed a letter on 22 February 1988 to the representatives of all member States represented at Headquarters and to the Director-General of the ILO, indicating to them his readiness to arrange the consultative meetings. They were invited to send representatives to attend an organizational meeting on 8 March 1988.

14. Fourteen consultative meetings, each announced in the Headquarters Journal, were held between 8 March and 7 July. The consultations had four distinct phases:

an organisational meeting, seven meetings for a first and then five meetings for a second reading of the report of the Secretary-General to the forty-second session of the General Assembly (A/42/328), and a final meeting to review the conclusions reached during the second reading and to conclude the consultations.

1. Organisational meeting

15. At the organisational meeting held on 8 March, the participants decided that the Legal Counsel should chair the consultations which, in accordance with the instructions of the General Assembly, would meet only when otherwise unused conference servicing facilities were available, except to the extent that it might be possible (as proved to be the case for all of the second reading meetings) to forego the use of conference servicing facilities entirely.

16. The participants decided to schedule two consecutive readings of the report of the Secretary-General (A/42/328), with the later one focusing on particular changes to be proposed to the texts governing the United Nations Tribunal. It was also decided that, in addition to the ILO, the Executive Secretary of the United Nations Administrative Tribunal, the Registrar of the ILO Administrative Tribunal and the Secretary of the Committee on Applications for Review of Administrative Tribunal Judgements (the Review Committee) should be invited to be represented at the consultative meetings. Invitations to them were dispatched by the Legal Counsel on 17 March. While the UNAT Executive Secretary and the Secretary of the Review Committee were able to attend a number of the consultative meetings, the ILOAT Registrar was unable to do so because of time, geographical and fiscal constraints, as he explained in a 25 March letter to the Legal Counsel. It was emphasized that the purpose of the consultation was an informal exchange of views, with the understanding that delegations would not be bound by positions taken.

2. First reading

17. The first reading, which consisted of a review of the 8 sections and 28 subsections of part II of the report of the Secretary-General, took place at the second through the eighth consultative meetings, between 5 April and 10 May. At those meetings, the participants concentrated on the alternatives set out in the commentary included in the report of the Secretary-General (A/42/318, paras. 11-99), with some consideration of the proposed revisions to the UNAT statute, as set out in annex I.A of the report. At the completion of the first reading, an informal summary of the views and tentative conclusions reached was distributed to the participants by the Secretariat; the availability upon request of that summary was also announced in the Journal.

3. Second reading

18. The second reading, which concentrated on the proposed substantive revisions to the governing instruments of UNAT as set out in annexes I.A and B to document A/42/328, took place during the ninth through thirteenth consultative meetings, which

took place between 1 and 29 June 1988 in the Legal Counsel Conference Room. At those meetings the participants considered the statutory and rule revisions proposed by the Secretary-General and the reasoning for them as contained in the commentary part of the report, as well as the discussions thereon during the first reading. The conclusions of the second reading are reflected in the third column of annexes I and II and in annex III to the present report. Throughout those meetings, and in particular at their conclusion, informal compilations summarizing the texts tentatively agreed on were prepared by the Secretariat and distributed to the participants. The availability of the final summary was also announced in the Journal.

4. Review meeting

19. The fourteenth and last consultative meeting was held on 7 July 1988. At that meeting, the informal summary of views expressed and conclusions reached during the second reading was reviewed by the participants.

20. One State representative expressed the view that the informal summary of the second reading contained formulations and decisions that differed impermissibly from those contained in the informal summary of the first reading and did not reflect certain objections raised during that reading. He also expressed his understanding that the second reading had been intended merely as a drafting exercise.

21. A second State representative expressed the view, which was shared by another such representative, that the informal summary accurately reflected the views expressed and conclusions reached during the second reading, and that the latter had not been intended either as a review of the conclusions of the first meeting or as a mere drafting exercise.

22. In view of the objection raised, it was agreed that any substantive disagreements with the views prevailing at the consultations would be duly recorded and reported in the present report. In accordance with that decision, the following disagreements with the revised text of the UNAT statute that emerged from the second reading, as set out in the third column of annex I to the present report, are noted for the Assembly's information:

| <u>UNAT statute reference</u> | <u>Disagreement expressed with</u> |
|-------------------------------|---|
| (a) Article 3, para. 1 | Requirement that Tribunal members have held high judicial office or have comparable juridical qualifications; |
| (b) Article 3, new para. 2A | Requirement that the Secretary-General's consultations with regard to preparing a list of candidates to be considered for appointment to the Tribunal should include consultation with staff representative organs; |

UNAT statute reference

Disagreement expressed with

(c) Article 2, new para. 2A(a)

Extension of Tribunal's jurisdiction to include certain "officials", i.e., non-staff members, appointed by the General Assembly to remunerated posts with the Organisation (e.g. Chairman of ACABQ; Chairman and Vice-Chairman of ICSC; JIU members);

(d) Article 9, new para. 1A

Deletion of the words "in exceptional circumstances" from the penultimate sentence of the current text (see art. 9, para. 1);

(e) Article 12, para. 1

Extension of the present 30-day time period to a 90-day one for submitting an application for a revision of a Tribunal judgement based on the discovery of a fact of a decisive nature.

23. In order to further recommend the General Assembly in its consideration of changes to the statute of UNAT, as reflected in annex I to the present report, certain substantive conclusions relating to those that emerged from the consultative meetings are identified in the following paragraphs.

24. With respect to the now draft article 2 ~~big~~, it was understood that the procedure provided for therein would not be fully useful to the United Nations until the recognition of Tribunal judgements by national courts could be achieved, possibly through a multilateral convention or a series of bilateral agreements with the Organisation. It is therefore suggested in paragraph 8 of the draft General Assembly resolution annexed to the present report (annex III) that the Secretary-General be requested to undertake a study of that question.

25. It was the view of the participants that, in order to relieve the Tribunal as much as possible of applications or requests that are "frivolous or otherwise an abuse of process", the ~~rule~~ ~~not~~ ~~out~~ ~~in~~ ~~paragraph~~ ~~3~~ ~~of~~ ~~article~~ ~~7~~ ~~for~~ ~~barring~~ ~~such~~ ~~appeals~~ should be maintained with a minor change, and should also be supplemented by a provision that costs might be imposed on the applicant by the Tribunal pursuant to proposed new paragraph 2B of article 9.

26. The participants were in agreement that the Secretary-General might be required to perform specifically all judgements of the Tribunal, except if the Tribunal's order is one that might seriously interfere with his powers relating to the composition of the Secretariat, by requiring the reinstatement, assignment or promotion of a staff member (see art. 9, para. 1A). At present, paragraph 1 of article 9 provides that the Secretary-General must always be given the possibility of paying monetary compensation in lieu of specific performance.

27. With respect to the terminology used to describe the limits on the amount of compensation to be awarded to successful claimants under paragraphs **1A** and 2 of article 9, it was noted that this might be defined in a proposed new paragraph 4 of that article. As the Tribunal has almost never made any **awards** that reached the specified limits, and as the Tribunal will maintain the power to exceed the limit by stating its reasons for so doing, it is not expected that such a change would have any financial implications. That same paragraph would also provide for the reimbursement of national income taxes in the event that these are imposed on the compensation awarded, so as to maintain equality **of** compensation between *those* officials whose Governments have agreed, pursuant to the Convention on the Privileges and Immunities of the United Nations, to exempt them from taxation on their United Nations salaries and other emoluments, and the officials of those Governments which have not so agreed.

28. With regard to the review of Tribunal judgements, provided for in article 11 of its statute, the participants felt that no extensive changes were required. However, the following improvements were proposed:

(a) Though the grounds for review specified in paragraph 1 of article 11 were sufficient and need not be expanded (except in one minor respect), those grounds could be more clearly stated and therefore the paragraph should be slightly restructured;

(b) The time-limits for the submission of applications to the Review **Committee** were in need of clarification and it was suggested, as reflected in paragraph 12 of the draft resolution set out in annex III to the present report, that a request to that effect be made to the Committee:

(c) The review procedure provided for in article 11 of the statute of the Tribunal should be brought to the attention of applicants by the Executive Secretary of the Tribunal when communicating a copy of its judgement to them, and this is to be recommended by paragraph 11 of the draft resolution. For the same reason, the rules of procedure of the Review Committee should be included in the booklet containing the statute and rules **of** the Tribunal, and this is to be recommended by paragraph 10 of the draft resolution. (Similar suggestions had been made by the Review Committee in the past.) **2/**

29. With regard to a possible extension of the article 11 review procedure to judgements concerning United Nations Joint Staff Pension Fund cases, as had been proposed by the Secretary-General in his report to the forty-second session of the General Assembly (A/42/328, **para. 92**), the participants were concerned that this might cause the Review Committee and possibly the International Court of Justice (**ICJ**) to be seized of applications involving pension disputes, which neither would be competent to deal with. Consequently, there was agreement, in spite of the prior recommendation of the Pension Fund Board, **3/** to exclude the possibility of a post-judgement review of Pension Fund cases, on the understanding that such judgements would therefore continue to be final and without appeal. The competent organs (such as the Pension Fund Board, the Secretary-General or the executive heads of other organizations that had agreed to the submission of pension fund cases to the Tribunal, as well as the General Assembly) would therefore in all

cases have to comply with such judgements, which is in conformity with the advisory opinion of the International Court of Justice in respect of the Effect of Awards of Compensation Made by the United Nations Administrative Tribunal (see I.C.J. Reports 1954, p. 47).

30. As to the recommendation contained in paragraph 2 of resolution 957 (X) that neither States nor the Secretary-General • □□& to present oral statements in an ICJ proceeding on a request for an advisory opinion concerning an Administrative Tribunal judgement, for the reason that individual applicant8 might not be able to participate in that phase of such a proceeding, the participant8 felt that the General Assembly should withdraw that recommendation in view of the criticism that the lack of an oral proceeding could hinder the judicial process of the ICJ. It is therefore suggested, as reflected in paragraph 4 of annex III to the present report, that the Assembly withdraw its earlier recommendation and leave it to the ICJ to determine its own procedures in particular cases.

31. No conclusion was reached as to whether to propose to the General Assembly that the consideration of candidates for appointment to the United Nations Administrative Tribunal should remain with the Fifth Committee or be assigned to the Sixth Committee.

32. It is hoped that the results of the consultation, as reflected, respectively, in the third column of annexes I and II of the present report, as well as in annex III, will enable the General Assembly to conclude its consideration of this item at the current session, as foreseen in paragraph 1 (c) of resolution 42/217.

Notes

1/ See the reports submitted to the thirty-sixth and thirty-seventh sessions of the General Assembly (A/C.5/36/23 and A/C.5/37/23). An extensive account of the entire consultation appears in the report submitted at the forty-second session (A/42/328, paras. 4-7).

2/ See para. 7 of the Report of the Committee on Applications for Review of Administrative Tribunal Judgements, A/AC.86/36, dated 27 October 1987.

3/ See para. 92 (a) of document A/42/328 and Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 9 (A/39/9 and Corr.1), para. 121 and annex IX.

ANNEX I

STATUTE OF THE UNITED NATIONS
ADMINISTRATIVE TRIBUNAL

PRESENT TEXT
(AT/11/Rev.4)

as adopted by the General Assembly by resolution 351 A (IV) on 24 November 1949 and amended by resolution 782 B (VIII) on 9 December 1953 and by resolution 957 (X) on 8 November 1955

REVISED TEXT PROPOSED BY
THE SECRETARY-GENERAL

as set out in Annex I.A of the report submitted to the 42nd General Assembly session (A/42/328)

REVISED TEXT RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS

to be presented to the 43rd General Assembly session by the Secretary-General

(ESTABLISHMENT)

ARTICLE 1

A Tribunal is established by the present Statute to be known as the United Nations Administrative Tribunal.

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ESTABLISHMENT

ARTICLE 1

A Tribunal is established by the present Statute to be known as the United Nations Administrative Tribunal.

(COMPETENCE)

ARTICLE 2

1. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. The words "contracts" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance, including the staff pension regulations.

2. The Tribunal shall be open:

(a) To any staff member of the Secretariat of the United Nations even after his employment has ceased, and to any person who has succeeded to the staff member's rights on his death;

(b) To any other person who can show that he is entitled to rights under any contract or terms of appointment, including the provisions of staff regulations and rules upon which the staff member could have relied.

ARTICLE 2

1. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. The words "contracts" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance, including the staff pension regulations.

2. The Tribunal shall be open:

(a) To any staff member of the Secretariat of the United Nations even after his employment has ceased, and to any person who has succeeded to the staff member's rights on his death;

(b) To any other person who can show that he is entitled to rights under any contract or terms of appointment, including the provisions of regulations and rules upon which a staff member could have relied.

COMPETENCE

ARTICLE 2

1. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. The words "contracts" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance, including the staff pension regulations.

2. The Tribunal shall be open:

(a) To any staff member of the Secretariat of the United Nations even after his employment has ceased, and to any person who has succeeded to the staff member's rights on his death;

(b) To any other person who can show that he is entitled to rights under any contract or terms of appointment, including the provisions of regulations and rules upon which a staff member could have relied.

2A. The Tribunal shall also be competent to hear and pass judgement upon:

- (a) Applications alleging non-observance of the terms of appointment of any person appointed by the General Assembly to a remunerated post with the United Nations;
- (b) Applications alleging non-observance of the contracts of employment of any other person employed by or performing services under contract with the United Nations, if the terms of his employment or contract provide for the competence of the Tribunal;
- (c) Applications alleging non-observance of contracts of employment of persons employed by any recognised entity created or managed by officials of the United Nations, provided national courts are precluded from exercising jurisdiction.

Paragraph 2 of this article shall apply, mutatis mutandis.

3. In the event of a dispute as to whether the Tribunal has competence, the matter shall be settled by the decision of the Tribunal.

4. The Tribunal shall not be competent, however, to deal with any applications where the cause of complaint arose prior to 1 January 1950.

ARTICLE 2 BIS

The Tribunal shall also be competent to decide, at the request of the Secretary-General, on the validity of any financial claim by the United Nations against a Person referred to in subparagraph 2(a), 2A(a) or 2A(b) of article 2.)

2A. The Tribunal shall also be competent to hear and pass judgement upon:

- (a) Applications alleging non-observance of the terms of appointment of any person appointed by the General Assembly to a remunerated post with the United Nations;
- (b) Applications alleging non-observance of the contracts of employment of any other person employed by or performing services under contracts with the United Nations, if the terms of his employment or contract provide for the competence of the Tribunal;
- (c) Applications alleging non-observance of contracts of employment of persons employed by any recognised entity created or managed by officials of the United Nations, provided national courts are precluded from exercising jurisdiction.

Paragraph 2 of this article shall apply mutatis mutandis.

3. In the event of a dispute as to whether the Tribunal has competence, the matter shall be settled by a decision of the Tribunal.

ARTICLE 2 BIS

The Tribunal shall also be competent to decide, at the request of the Secretary-General, on the validity of any financial claim by the United Nations against a person referred to in subparagraph 2(a), 2A(a) or 2A(b) of Article 2, in cases where ~~recognition~~ recognition due the Organization by administrative action is not feasible.

• See also paragraph 22 of the report.

ARTICLE 2 TRES

1. The Tribunal shall, in respect of applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund arising out of decisions of the United Nations Joint Staff Pension Board, have the jurisdiction specified in the Regulations of the Fund. Articles 11, 11 bis and 12 shall apply, mutatis mutandis[, except to the extent that the member organization of the Fund concerned otherwise specifies].

2. The Secretary-General shall conclude a special agreement with each member organization of the Fund which has accepted the jurisdiction of the Tribunal in Joint Staff Pension Fund cases.

(ADVISORY OPINIONS)

ARTICLE 2 QUATRO

The Joint Panel established by paragraph 3 of article 11 bis may, at the request of the Secretary-General taken in consultation with members of the Administrative Committee on Co-ordination, give an advisory opinion on any general legal question of interest to organizations applying the United Nations common system of staff administration and the terms of appointment referred to in paragraph 1 of article 2. Individual members of the staff and representatives of recognized staff representative organs shall be allowed, under rules established by the Panel, to participate in the proceedings on the basis of which such an opinion is given.]

ARTICLE 2 TRES

1. The Tribunal shall, in respect of applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund arising out of decisions of the United Nations Joint Staff Pension Board, have the jurisdiction specified in the Regulations of the Fund.

2. The Secretary-General shall conclude a special agreement with each member organisation of the Fund which has accepted the jurisdiction of the Tribunal in Joint Staff Pension Fund cases.

ARTICLE 3

1. The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Only three shall sit in any particular case.

2. The members shall be appointed by the General Assembly for three years, and they may be reappointed; provided, however, that of the members initially appointed, the terms of two members shall expire at the end of one year and the terms of two members shall expire at the end of two years. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

3. The Tribunal shall elect its President and its two Vice-Presidents from among its members.

The Secretary-General shall provide the Tribunal with an Executive Secretary and such other staff as may be considered necessary.

(COMPOSITION)

ARTICLE 3

1. The Tribunal shall be composed of seven members who shall normally be persons who hold or who have held high judicial office and who should preferably have experience in international administrative or labour questions, no two of whom may be nationals of the same State. Only three shall sit in any particular case, but a fourth may serve as an alternate who may only participate in decisions if another of the members is unable to do so.

2. The members shall be appointed by the General Assembly for three years, and they may be re-appointed. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

2A. The General Assembly shall appoint or re-appoint the members from among a list of candidates compiled by its President after appropriate consultations with Member States, with the executive heads of the organizations with which special agreements pursuant to article 14 or to paragraph 2 of article 2 bis have been concluded, and with staff representative organs.

5. The Tribunal shall elect its President and its two Vice-Presidents from among its members.

3. A member of the Tribunal may only be dismissed on the ground that he is unsuited for further service, as determined unanimously by the other members and decided by the General Assembly.

COMPOSITION

ARTICLE 3

1. The Tribunal shall be composed of seven members who hold or have held high judicial office or have comparable juridical qualifications and who should preferably have experience in international administrative or labour questions. NO two members of the Tribunal shall be of the same nationality. Only three shall sit in any particular case, but a fourth may serve as an alternate who may only participate in decisions if another of the members is unable to do so.

2. The members shall be appointed by the General Assembly for three years, and they may be re-appointed. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

* 2A. The General Assembly shall appoint or re-appoint the members from candidates submitted by the Secretary-General. The Secretary-General shall prepare his list from among candidates nominated by Member States, after he has conducted appropriate consultations with Member States, with the executive heads of the organizations with which special agreements pursuant to Article 2 bis or 14 have been concluded, and with staff representative organs.

5. The Tribunal shall elect its President and its two Vice-Presidents from among its members.

3. A member of the Tribunal may only be dismissed on the ground that he is unsuited for further service, as determined unanimously by the other members and decided by the General Assembly.

* See also paragraph 22 of the report.

PRESENT TEXT
(AT/11/Rev.4I)

5. No member of the Tribunal can be dismissed by the General Assembly unless the other members are of the unanimous opinion that he is unsuited for further service.

6. In case of a resignation of a member of the Tribunal, the resignation shall be addressed to the President of the Tribunal for transmission to the Secretary-General. This last notification makes the place vacant.

ARTICLE 4

The Tribunal shall hold ordinary sessions at dates to be fixed by its rules, subject to there being cases on its list which, in the opinion of the President, justify holding the session. Extraordinary sessions may be convoked by the President when required by the cases on the list.

ARTICLE 5

1. The Secretary-General of the united Nations shall make the administrative arrangements necessary for the functioning of the Tribunal.

2. The expenses of the Tribunal shall be borne by the United Nations.

REVISED TEXT PROPOSED BY
THE SECRETARY-GENERAL

4. In case Of a resignation of a member of the Tribunal, the resignation shall be addressed to the President for transmission to the Secretary-General. This last notification makes the place vacant.

(SESSIONS)

ARTICLE 4

The Tribunal shall hold ordinary sessions at dates to be fixed by its rules, subject to there being cases on its list which, in the opinion of the President, justify holding the session. Extraordinary sessions may be convoked by the President when required by the cases on the list.

(ADMINISTRATIVE ARRANGEMENTS)

ARTICLE 5

0. The Secretary-General shall provide the Tribunal with an Executive Secretary and such other staff as may be considered necessary. The Executive Secretary and other staff shall be appointed and the conditions of their appointment shall be settled in consultation between the Tribunal and the Secretary-General. The Executive Secretary and his staff shall be responsible only to the Tribunal in the exercise of their functions.

1. The Secretary-General shall make the administrative arrangements necessary for the functioning of the Tribunal.

2. Subject to special agreements concluded pursuant to article 2 ~~tres~~ or 14, the expenses of the Tribunal shall be borne by the United Nations.

REVISED TEXT RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS

4. In case of a resignation of a member of the Tribunal, the resignation shall be addressed to the President for transmission to the Secretary-General. This last notification makes the place vacant.

SESSIONS

ARTICLE 4

The Tribunal shall hold ordinary sessions at dates to be fixed by its rules, subject to there being cases on its list which, in the opinion of the President, justify holding the session. Extraordinary sessions may be convoked by the President when required by the cases on the list.

ADMINISTRATIVE ARRANGEMENTS

ARTICLE 5

0. The Secretary-General shall provide the Tribunal with an Executive Secretary and such other staff as may be considered necessary. The Executive Secretary and other Staff shall be appointed and the conditions of their appointment shall be settled in consultation between the Tribunal and the Secretary-General. The Executive Secretary and his staff shall be responsible only to the Tribunal in the exercise of their functions.

1. The Secretary-General shall make the administrative arrangements necessary for the functioning of the Tribunal.

2. Subject to special agreements concluded pursuant to article 2 ~~tres~~ or 14, the expenses of the Tribunal shall be borne by the United Nations.

ARTICLE 5 BIS

1. With its agreement, a permanent Assessor may be appointed to assist the Tribunal and, if appropriate arrangements can be made therefor, he may perform similar functions in relation to the Administrative Tribunal of the International Labour Organisation.
2. The function of the Assessor shall be to submit in writing to the Tribunal an independent and objective analysis of applications submitted to it taking into account specially the case law of the Tribunal as well as that of the International Labour Organisation and, as appropriate, that of other international administrative tribunals. Submissions of the Assessor shall be published together with the judgement to which they relate.
3. The rules concerning the selection of the Assessor, the terms of his appointment and his participation in proceedings shall be established after appropriate consultations.

(RULES)

- 6

ARTICLE 6

1. Subject to the provisions of the present Statute, the Tribunal shall establish its rules.
2. The rules shall include provisions concerning:
 - (a) Election of the President and Vice-Presidents;
 - (b) Composition of the Tribunal for its sessions;
 - (c) Presentation of applications and the procedure to be followed in respect to them;
 - (d) Intervention by persons to whom the Tribunal is open under paragraph 2 of article 2, whose rights may be affected by the judgement;

RULES

- 6

1. Subject to the provisions of the present Statute, the Tribunal shall establish its rules.
2. The rules shall include provisions concerning:
 - (a) Election of the President and Vice-Presidents;
 - (a') Selection, terms of appointment and functioning of the Assessor;
 - (b) Composition of the Tribunal for its sessions;
 - (c) Presentation of applications and the procedure to be followed in respect to them;
 - (d) Intervention by persons to whom the Tribunal is open under paragraph 2 of article 2, whose rights may be affected by the judgement;

1. Subject to the provisions of the present Statute, the Tribunal shall establish its rules.
2. The rules shall include provisions concerning:
 - (a) Election of the President and Vice-Presidents;
 - (b) Composition of the Tribunal for its sessions;
 - (c) Presentation of applications and the procedure to be followed in respect to them;
 - (d) Intervention by persons to whom the Tribunal is open under paragraph 2 or 2A of article 2, whose rights may be affected by the judgement;

PRESENT TEXT
(AT/11/Rev.4)

(e) Hearing, for purposes of information, of persons to whom the Tribunal is open under paragraph 2 of article 2, even though they are not parties to the case; and generally

(f) Other matters relating to the functioning of the Tribunal.

ARTICLE 7

1. An application shall not be receivable unless the person concerned has previously submitted the dispute to the joint appeals body provided for in the staff regulations and the latter has communicated its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Administrative Tribunal.

2. In the event of the joint body's recommendations being favourable to the application submitted to it, and in so far as this is the case, an application to the Tribunal shall be receivable if the Secretary-General has:

REVISED TEXT PROPOSED BY
THE SECRETARY-GENERAL

(e) Hearing, for purposes of information, of individuals, staff representative organs and other entities [persons to whom the Tribunal is open under paragraph 2 of article 2], even though they are not parties to the case;

(f) Procedures relating to applications or disputes submitted under paragraph 2A of article 2;

[(g) Procedures relating to claims submitted under article 2 bis;]

(h) Procedures relating to applications submitted under article 2 ter;

[(i) Procedures relating to the giving of advisory opinions pursuant to article 2 quatro;]

(j) Expeditions procedures relating to applications under article 12;

(k) Award of costs pursuant to paragraph 2A of article 9; and generally

(l) [(f)] Other matters relating to the functioning of the Tribunal.

(COMPLAINTS)

ARTICLE 7

1. An application submitted pursuant to paragraph 1 of article 2 shall not be receivable unless the applicant has previously submitted the dispute to the joint appeals body provided for in the Staff Regulations and the latter has ~~communicated~~ its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Tribunal.

2. In so far as the recommendations made by the joint body are favourable to the applicant, an application shall be receivable if the Secretary-General has:

REVISED TEXT RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS

It) Hearing, for purposes of information, of individuals, staff representative organs and other entities, even though they are not parties to the case;

(f) Procedures relating to applications or disputes submitted under paragraph 2A of article 2;

(g) Procedures relating to claims submitted under article 2 bis;

(h) Procedures relating to applications submitted under article 2 ter;

(j) Expeditions procedures relating to applications under article 12;

(k) Award of costs pursuant to paragraph 2A of article 9; and generally

(l) Other matters relating to the functioning of the Tribunal.

ARTICLE 7

1. An application submitted pursuant to paragraph 1 of article 2 shall not be receivable unless the applicant has previously submitted the dispute to the joint appeals body provided for in the Staff Regulations and the latter has communicated its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Tribunal.

2. In so far as the recommendations made by the joint body are favourable to the applicant, an application shall be receivable if the Secretary-General has:

**PRESENT TEXT
(AT/11/Rev.4)**

**REVISED TEXT PROPOSED BY
THE SECRETARY-GENERAL**

**REVISED TEXT RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS**

- (a) Rejected the recommendations;
- (b) Failed to take any action within the thirty days following the communication of the opinion; or
- (c) Failed to carry out the recommendations within thirty days following the communication of the opinion.

- (a) Rejected the recommendations;
- (b) Failed to take any action within the thirty days following the communication of the opinion; a
- (c) Failed to carry out the recommendations within the thirty days following the communication of the opinion.

- (a) Rejected the recommendations;
- (b) Failed to take any action within the thirty days following the communication of the opinion; or
- (c) Failed to carry out the recommendations within the thirty days following the communication of the opinion.

3. In the event that the recommendations made by the joint body and accepted by the Secretary-General are unfavourable to the applicant, and in so far as this is the case, the application shall be receivable, unless the joint body unanimously considers that it is frivolous.

3. In so far as the recommendations made by the joint body and accepted by the Secretary-General are unfavourable to the applicant, the application shall be receivable, unless the joint body unanimously considers that it is clearly devoid of any

3. In so far as the recommendations made by the joint body and accepted by the Secretary-General are unfavourable to the applicant, the application shall be receivable, unless the joint body unanimously considers that it is frivolous or otherwise an abuse of process.

4. An application shall not be receivable unless it is filed within ninety days reckoned from the respective dates and periods referred to in paragraph 2 above, or within ninety days reckoned from the date of the communication of the joint body's opinion containing recommendations unfavourable to the applicant. If the circumstance rendering the application receivable by the Tribunal, pursuant to paragraphs 2 or 3 above, is anterior to the date of announcement of the first session of the Tribunal, the time limit of ninety days shall begin to run from that date. Nevertheless, the said time limit on his behalf shall be extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his own affairs, file the application in the name of the said staff member.

4. An application shall not be receivable unless it is filed within ninety days reckoned from the respective dates and periods referred to in paragraph 2 above, or within ninety days reckoned from the date of the communication of the joint body's opinion containing recommendations unfavourable to the applicant. Nevertheless, the said time limit on his behalf shall be extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his own affairs, file the application in the name of the said staff member.

4. An application shall not be receivable unless it is filed within ninety days reckoned from the respective dates and periods referred to in paragraph 2 above, or within ninety days reckoned from the date of the communication of the joint body's opinion containing recommendations unfavourable to the applicant. Nevertheless, the said time limit on his behalf shall be extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his own affairs, file the application in the name of the said staff member. Furthermore, in cases where the Secretary-General has proposed to a prospective applicant that he delay the submission of an application pending the judgment of the Tribunal on another application raising similar issues, the Tribunal shall appropriately suspend these time limits.

[4A. An application pursuant to article 2 bis shall be submitted to the Tribunal within one year after the claim to which it relates has arisen.]

4A. An application pursuant to article 2 bis shall be submitted to the Tribunal within one year after the claim to which it relates has arisen-

5. In any particular case the Tribunal may decide to suspend the provisions regarding time limits.

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6. The filing of an application shall not have the effect of suspending the execution of the decision contested.

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7. Applications may be filed in any of the five official languages of the United Nations.

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(ORAL PROCEEDINGS)

ORAL PROCEEDINGS

ARTICLE 8

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The oral proceedings of the Tribunal shall be held in public unless the Tribunal decides that exceptional circumstances require that they be held in private.

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(SUBSTANTIVE POWERS OF THE TRIBUNAL)

SUBSTANTIVE POWERS OF THE TRIBUNAL

ARTICLE 9

ARTICLE 9

ARTICLE 9

1. If the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked. At the same time the Tribunal shall fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, with thirty days of the notification of the judgement, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his case, provided that such compensation shall not exceed the equivalent of two years' net base salary of the applicant. The Tribunal may, however, in exceptional cases, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order.

1. If the Tribunal finds that an application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked.

1. If the Tribunal finds that an application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked.

IA. If an order made pursuant to paragraph 1 of this article in respect of an application submitted pursuant to paragraph 1 of article 2 rescinds the separation or requires the reinstatement or a particular assignment of the applicant, the Tribunal shall at the same time fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgement, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his case, provided that such compensation shall normally not exceed the equivalent of three years' net emoluments of the applicant. The Tribunal may, however, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order.

* IA. If an order made pursuant to paragraph 1 of this article in respect of an application submitted pursuant to paragraph 1 of article 2 rescinds the separation or requires the reinstatement, promotion or a particular assignment of the applicant, the Tribunal shall at the same time fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgement, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his case, provided that such compensation shall normally not exceed the equivalent of two years' net emoluments of the applicant. The Tribunal may, however, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order.

2. Should the Tribunal find that the procedure prescribed in the Staff Regulations or Staff Rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits, order the case remanded for institution or correction of the required procedure. Where a case is remanded, the Tribunal may order the payment of compensation, not to exceed the equivalent of three months' net base salary, to the applicant for such loss as may have been caused by the procedural delay.

2. Should the Tribunal find that the procedure prescribed in the pertinent regulations and rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits, order the case remanded for institution or correction of the required procedure. Where a case is remanded, the Tribunal may order the payment of compensation to the applicant for such loss as may have been caused by the procedural delay.

2. Should the Tribunal find that the procedure prescribed in the pertinent regulations and rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits, order the case remanded for institution or correction of the required procedure. Where a case is remanded, the Tribunal may order the payment of compensation, not to exceed the equivalent of three months' net emoluments, to the applicant for such loss as may have been caused by the procedural delay.

* see also paragraph 22 of the report.

2A. If the Tribunal finds the application well founded in whole or in part, and if it considers that a point of law of exceptional importance is raised by it, it may award to the applicant compensation for - - - r - y incurred by him in pursuing the proceeding in the Tribunal.

2A. If the Tribunal finds an application, or a request under article 12, well founded in whole or in part, it may award to the applicant compensation for the necessary costs reasonably incurred by him in pursuing the proceedings in the Tribunal.

2B. If the Tribunal finds the application clearly & void of any chance of success it may, if it considers it appropriate, require the applicant to pay the costs incurred by the Tribunal and the respondent, but not exceeding the equivalent of one month's net emoluments.

2B. If the Tribunal finds an application, or request under article 12, frivolous or otherwise an abuse of process it may, if it considers it appropriate, require the applicant to pay the costs incurred by the Tribunal and the respondent, but not exceeding the equivalent of one month's net emoluments.

3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the United Nations or, as appropriate, by the specialized agency participating under article 14.

3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the respondent [United Nations or, as appropriate, by the specialized agency participating under article 14].

3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the respondent.

4. Wherever in this article a compensation or payment limit is stated in terms of "net emoluments" for a specified period, the amount of the limit shall be calculated on the basis of the applicant's current emoluments or his final emoluments before separation, taking into account those emoluments that are specified for determining the amount of a Termination Indemnity under the Staff Regulations, and shall be subject to the reimbursement of any national income tax that may be imposed on the compensation.

4. Wherever in this article a compensation or payment limit is stated in terms of "net emoluments" for a specified period, the amount of the limit shall be calculated on the basis of the applicant's current emoluments or his final emoluments before separation, taking into account those emoluments that are specified for determining the amount of a Termination Indemnity under the Staff Regulations, and shall be subject to the reimbursement of any national income tax that may be imposed on the compensation.

(JUDGEMENTS

ARTICLE 10

ARTICLE 10

ARTICLE 10

1. The Tribunal shall take all decisions by a majority vote.
2. Subject to the provisions of articles 11 and 12, the judgements of the Tribunal shall be final and without appeal.
3. The judgements shall state the reasons on which they are based.

1. The Tribunal shall take all decisions by a majority vote.
2. Subject to the provisions of articles 11, 11 bis and 12, the judgements of the Tribunal shall be final and without appeal.
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1. The Tribunal shall take all decisions by a majority vote.
2. Subject to the provisions of article 11 and 12, the judgements of the Tribunal shall be final and without appeal.
3. The judgements shall state the reasons on which they are based.

**PRESENT TEXT
(AT/11/Rev.4)**

4. The judgements shall be drawn up, in any of the five official languages of the United Nations, in two originals, which shall be deposited in the ~~•~~ of the Secretariat of the United Nations.

5. A copy of the judgement shall be communicated to each of the parties in the case. Copies shall also be made available on request to interested persons.

ARTICLE 11

1. If a Member State, the Secretary-General or the person in respect of whom a judgement has been rendered by the Tribunal (including anyone who has succeeded to that person's rights on his death) objects to the judgement on the ground that the Tribunal has exceeded its jurisdiction or competence or that the Tribunal has failed to exercise jurisdiction vested in it, or has erred on a question of law relating to the provisions of the Charter of the United Nations, or has committed a fundamental error in procedure which has occasioned a failure of justice, such Member State, the Secretary-General or the person concerned may, within thirty days from the date of the judgement, make a written application to the Committee established in paragraph 4 of this article asking the Committee to request an advisory opinion of the International Court of Justice as to the matter.

**REVISED TEXT PROPOSED BY
THE SECRETARY-GENERAL**

4. The judgements shall be drawn up, in any of the official languages of the General Assembly, in two originals, which shall be deposited in the archives of the United Nations.

5. A copy of the judgement shall be communicated to each of the parties in the case. Copies shall also be made available on request to interested persons.

(REVIEW OF JUDGEMENTS AT REQUEST OF STATES)

ARTICLE 11

1. If a Member State objects to a judgement on the ground that the Tribunal has exceeded its jurisdiction or competence or has erred on a question of law relating to the provisions of the Charter of the United Nations or any other relevant international treaty, such State may, within thirty days from the date of the judgement, make a written application to the Tribunal asking the Committee established by paragraph 4 of this article to request an advisory opinion of the International Court of Justice on the matter,

**REVISED TEXT RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS**

4. The judgements shall be drawn up, in any of the official languages of the General Assembly, in two originals, which shall be deposited in the archives of the United Nations.

5. A copy of the judgement shall be communicated to each of the parties in the case. Copies shall also be made available on request to interested persons.

REVIEW OF JUDGEMENTS

ARTICLE 11

1. In respect of any judgement of the Tribunal, a Member State, the Secretary-General, or the person in respect of whom a judgement has been rendered by the Tribunal (including anyone who has succeeded to that person's rights on his death) may, by a written application filed with the Secretary of the Committee established pursuant to paragraph 4 of this article, ask the Committee to request an advisory opinion of the International Court of Justice on whether the Tribunal in that judgement had:

- (a) exceeded its jurisdiction or competence;
- (b) failed to exercise jurisdiction vested in it;
- (c) erred on a question of law relating to the provisions of the Charter of the United Nations or any other relevant international treaty; or,
- (d) committed a fundamental error in procedure which has occasioned a failure of justice.

PRESENT TEXT
(AT/11/Rev.4)

2. Within thirty days from the receipt of an application under paragraph 1 of this article, the Committee shall decide whether or not there is a substantial basis for the application. If the Committee decides that such a basis exists, it shall request an advisory opinion of the Court, and the Secretary-General shall arrange to transmit to the Court the views of the person referred to in paragraph 1.

3. If no application is made under paragraph 1 of this article, or if a decision to request an advisory opinion has not been taken by the Committee, within the periods prescribed in this article, the judgement of the Tribunal shall become final. In any case in which a request has been made for an advisory opinion, the Secretary-General shall either give effect to the opinion of the Court or request the Tribunal to convene specially in order that it shall confirm its original judgement, or give a new judgement, in conformity with the opinion of the Court. If not requested to convene specially the Tribunal shall at its next session confirm its judgement or bring it into conformity with the opinion of the Court.

REVISED TEXT PROPOSED BY
THE SECRETARY-GENERAL

2. Within thirty days from the receipt of an application under paragraph 1 of this article, the Committee shall decide whether or not there is a substantial basis for the application; it may for this purpose request the advice of the Review Panel established by paragraph 3 of article 11 bis. If the Committee decides that such a basis exists, it shall request an advisory opinion of the Court, and the Secretary-General shall arrange to transmit to the Court the views of the person in respect of whom the judgement has been rendered by the Tribunal (including any one who has succeeded to that person's rights at his death).

3. If no application is made under paragraph 1 of this article, or if a decision to request an advisory opinion has not been taken by the Committee within the periods prescribed in this article, the judgement of the Tribunal shall become final. In any case in which a request has been made for an advisory opinion, the Secretary-General shall either give effect to the opinion of the Court or request the Tribunal to convene specially in order that it shall confirm its original judgement or give a new judgement, in conformity with the opinion of the Court. If not requested to convene specially the Tribunal shall at its next session confirm its judgement or bring it into conformity with the opinion of the Court.

REVISED TEXT RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS

2. The written application referred to in paragraph 1 of this article shall be submitted within 30 days from the date of the judgement. The Secretary of the Committee shall process the application without undue delay, and transmit it to the Committee. Within thirty days of such transmission the Committee shall decide whether or not there is a substantial basis for the application,

2A. In the event that the Committee decides that there is a substantial basis for the application, it shall request an advisory opinion of the International Court of Justice. If such a request is made, the Secretary-General shall transmit to the Court the documentation required by Article 65(2) of the Statute of the Court, and shall also submit to the Court his own views on the application, as well as those of the person in respect of whom the judgement has been rendered by the Tribunal (including any one who has succeeded to that person's rights at his death).

3. If no application is made under paragraph 1 of this article, or if a decision to request an advisory opinion has not been taken by the Committee within the periods prescribed in this article, the judgement of the Tribunal shall become final. In any case in which a request has been made for an advisory opinion, the Secretary-General shall either give effect to the opinion of the Court or request the Tribunal to convene specially in order that it shall confirm its original judgement or give a new judgement, in conformity with the opinion of the Court. If not requested to convene specially, the Tribunal shall at its next session confirm its judgement or bring it into conformity with the opinion of the Court.

PRESENT TEXT
(AT/11/Rev.4)

4. For the purpose of this article, a Committee is established and authorized under paragraph 2 of Article 96 of the Charter to request advisory opinions of the Court. The Committee shall be composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly. The Committee shall meet at United Nations Headquarters and shall establish its own rules.

5. If any case in which award of compensation has been made by the Tribunal in favour of the person concerned and the Committee has requested an advisory opinion under paragraph 2 of this article, the Secretary-General, if satisfied that such person will otherwise be handicapped in protecting his interests, shall within fifteen days of the decision to request an advisory opinion make an advance payment to him of one third of the total amount of compensation awarded by the Tribunal less such termination benefits, if any, as have already been paid. Such advance payment shall be made on condition that, within thirty days of the act of the Tribunal under paragraph 3 of this article, such person shall pay back to the United Nations the amount, if any, by which the advance payment exceeds any sum to which he is entitled in accordance with the opinion of the Court.

REVISED TEXT PROPOSED BY
THE SECRETARY-GENERAL

4. For the purpose of this article, a Committee is established and authorized under paragraph 2 of Article 96 of the Charter to request advisory opinions of the Court. The Committee shall be composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly. The Committee shall meet at United Nations Headquarters and shall establish its own rules, including definitions of the time limits prescribed in paragraphs 1 and 2 of this article.

s. In any case in which an award of compensation has been made by the Tribunal in favour of the person concerned and the Committee has requested an advisory opinion under paragraph 2 of this article, the respondent, if satisfied that such person will otherwise be handicapped in protecting his interests, shall within fifteen days of the decision to request an advisory opinion make an advance payment to him of one third of the total amount of compensation awarded by the Tribunal less such termination benefits, if any, as have already been paid. Such advance payment shall be made on condition that, within thirty days of the act of the Tribunal under paragraph 3 of this article, such person shall pay back to the respondent the amount, if any, by which the advance payment exceeds any sum to which he is entitled in accordance with the judgement of the Tribunal pursuant to that paragraph.

REVISED TEXT RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS

4. For the purpose of this article, a Committee is established and authorized under paragraph 2 of Article 96 of the Charter to request advisory opinions of the Court. The Committee shall be composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly. The Committee shall meet at United Nations Headquarters and shall establish its own rules, including definitions of the time limits prescribed in paragraph 2 of this article.

5. In any case in which an award of compensation has been made by the Tribunal in favour of the person concerned and the Committee has requested an advisory opinion under paragraph 2 of this article, the respondent if satisfied that such person will otherwise be handicapped in protecting his interests, shall within fifteen days of the decision to request an advisory opinion make an advance payment to him of one third of the total amount of compensation awarded by the Tribunal less such termination benefits, if any, as have already been paid - - shall be made on condition that, within thirty days of the act of the Tribunal under paragraph 3 of this article, such person shall pay back to the respondent the amount, if any, by which the advance payment exceeds any sum to which he is entitled in accordance with the judgement of the Tribunal pursuant to that paragraph.

(REVIEW OF JUDGEMENTS AT REQUEST OF PARTIES)

ARTICLE 11 BIS

1. The Secretary-General or the applicant may, by a written application filed with the Tribunal within thirty days from the date of a judgement, request a review of that judgement on the ground that the Tribunal has:

- (a) Exceeded its jurisdiction or competence;
- (b) Failed to exercise jurisdiction vested in it;

- (c) Erred on a question of law relating to the Charter of the United Nations or any other relevant international treaty;
- (d) Committed a fundamental error in procedure [which has occasioned a failure of justice];
- (e) Based the judgement on a reason not argued by either party;
- (f) Departed, without justification, from jurisprudence well established by itself or by the Administrative Tribunal of the International Labour Organisation in relation to the common system of staff administration.

No review may be requested in respect of a judgement rendered pursuant to subparagraph (c) of paragraph 2A of article 2.

2. Any request for a review of a judgement pursuant to paragraph 1 shall be considered and decided as expeditiously as possible by the Joint Panel established by paragraph 3 of this article, which may:

- (a) Decline to consider the judgement;
- (b) [Confirm or modify the judgement; articles 9-12 shall apply to the decisions of the Joint Panel, mutatis mutandis];
- (c) Request an advisory opinion of the International Court of Justice in relation to the judgement; upon receiving such an opinion, the Review Panel shall issue its decision in conformity with that opinion; paragraphs 2, 3 and 5 of article 11 shall apply, mutatis mutandis.

3. For the purpose of this article [and article 2 ~~quatro~~], a Joint Panel is established consisting of the President of the tribunal (or, if he is unavailable or excuses himself, the most senior available member), the President of the Administrative Tribunal of the International Labour Organisation (or, if he is unavailable or excuses himself, the most senior member of that tribunal) and a Chairman appointed for a specified period by the President of the International Court of Justice after consultations with the Presidents of these two Tribunals. The Panel shall establish its own rules for the expeditious conduct of its business on the basis of succinct written pleadings.

4. The Joint Panel established 4 paragraph 3 of this article shall also:

- (a) Advise the Committee established by paragraph 4 of article 11, if it should so request, as to the formulation of any requests for an advisory opinion to be addressed to the Court pursuant to paragraph 2 of that article:
- (b) Carry out such functions as are provided for it by the Statute of the Administrative Tribunal of the International Labour Organisation.

ARTICLE 12

The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which in fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement. Clerical or arithmetical mistakes in judgements, or errors* arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.

ARTICLE 13

The present Statute may be amended by decisions of the General Assembly.

(REVISION OF JUDGEMENTS)

ARTICLE 12

1. At the request of any of the parties, the Tribunal may revise a judgement on the basis of any fact or evidence of such a nature as to be a decisive factor and which the moving party was not able to rely on in the original proceeding. The request must be made within ninety days of the discovery of the fact or evidence and within three years of the date of the judgement.

2. Clerical or arithmetical mistakes in judgements, or errors* arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either on its own motion or at the request of any of the parties.

3. In the event the Tribunal, at the request of any of the parties made within ninety days of the date of a judgement, finds that it has failed to rule on a plea in the original proceeding, the Tribunal shall complete its judgement.

4. In the event of dispute as to the meaning or scope of a judgement, the Tribunal shall construe it at the request of any of the parties-

(AMENDMENT OF STATUTES)

ARTICLE 13

The present statute may be amended by decision of the General Assembly.

REVISION OF JUDGEMENTS

ARTICLE 12

1. At the request of any of the parties, the Tribunal may revised judgement on the basis of any fact or evidence of such a nature as to be a decisive factor and which the moving party was not able to rely on in the original proceeding, always provided that such inability was not due to negligence. The request must be made within ninety days of the discovery of the new fact or evidence and within one year of the date of the judgement.

2. Clerical or arithmetical mistakes in judgements, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either on its own motion or at the request of any of the parties.

4. In the event of dispute as to the meaning or scope of a judgement, the Tribunal shall construe it at the request of any of the parties made within one year of the date of the judgement.

AMENDMENT OF STATUTES

ARTICLE 13

The present statute may be amended by decision of the General Assembly.

* See also paragraph 22 of the report.

ARTICLE 14

The competence of the Tribunal may be extended to any specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. Each such special agreement shall provide that the agency concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that agency and shall include, inter alia, provisions concerning the agency's participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal.

(JURISDICTION OVER OTHER ORGANIZATIONS)

ARTICLE 14

The competence of the Tribunal may be extended to any organization that has accepted the statute of the International Civil Service Commission or to any other international organization specified by the General Assembly, upon terms established by a special agreement to be made with each such organization by the Secretary-General. Each such special agreement shall provide that the organization concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member or other employee of that organization and shall include, inter alia, provisions concerning the organization's participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal; each such special agreement shall also specify whether and how the provisions of articles 2, 2 bis, 7, 9, 11 and 11 bis shall apply, mutatis mutandis, in respect of proceedings relating to the organization concerned.

JURISDICTION OVER OTHER ORGANIZATIONS

ARTICLE 14

The competence of the Tribunal may be extended to any organization that has accepted the Statute of the International Civil Service Commission or to any other international organization specified by the General Assembly, upon terms established by a special agreement to be made with each such organization by the Secretary-General. Each such special agreement shall provide that the organization concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member or other employee of that organization and shall include, inter alia, provisions concerning the organization's participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal; each such special agreement shall also specify whether and how the provisions of articles 2, 2 bis, 7, 9 and 11 shall apply, mutatis mutandis, in respect of proceedings relating to the organization concerned.

ANNEX 11

**RULES OF THE ADMINISTRATIVE TRIBUNAL
OF THE UNITED NATIONS**

as adopted by the Tribunal on
7 June 1960 and amended on
20 December 1951, 9 December 1954,
30 November 1955, 4 December 1958,
14 September 1962, 16 October 1970
and 3 October 1972

Chapter I. Organization

Chapter II. Sessions

ARTICLE 6

1. The President shall designate the three members of the Tribunal who, in accordance with article 3 of the Statute, shall constitute the Tribunal for the purpose of sitting in each particular case or group of cases. The President may, in addition, designate one or more members of the Tribunal to serve as alternates.

Chapter III. Written proceedings

ARTICLE 13

An applicant may present his case before the Tribunal in person, in either the written or oral proceedings. Subject to article 7 of these rules, he may designate a staff member of the United Nations or one of the specialised agencies so to represent him, or may be represented by counsel authorised to practice in any country a member of the organization concerned. The President or, when the Tribunal is in session, the Tribunal may permit an applicant to be represented by a retired staff member of the United Nations or one of the specialised agencies.

**REVISIONS PROPOSED BY THE
SECRETARY-GENERAL**

as set out in Annex I.B of the report
submitted to the 42nd General Assembly
session (A/42/328)

Chapter I. Organization

Chapter II. Sessions

ARTICLE 6

1. The President shall designate the three members of the Tribunal who, in accordance with article 3 of the Statute, shall constitute the Tribunal for the purpose of sitting in each particular case or group of cases. The President may, in addition, designate a member of the Tribunal to serve as an alternate, who shall not participate in the decisions of the Tribunal except in the absence of one of the members designated pursuant to the first sentence.

Chapter III. Written Proceedings

ARTICLE 13

An applicant may present his case before the Tribunal in person, in either the written or oral proceedings. Subject to article 7 of these rules, he may designate a staff member of the United Nations or one of the organisations referred to in article 14 of the Statute so to represent him, or may be represented by counsel authorised to practice in any country a member of the organisation concerned. The President or, when the Tribunal is in session, the Tribunal may permit an applicant to be represented by a retired staff member of the United Nations or one of the above-specified organizations.

**REVISIONS RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS**

to be presented to the 43rd General
Assembly session by the Secretary-General

Chapter I. Organization

Chapter II. Sessions

ARTICLE 6

1. The President shall designate the three members of the Tribunal who, in accordance with article 3 of the Statute, shall constitute the Tribunal for the purpose of sitting in each particular case or group of cases. The President may, in addition, designate a member of the Tribunal to serve as an alternate, who shall not participate in the decisions of the Tribunal except in the absence of one of the members designated pursuant to the first sentence.

Chapter III. Written proceedings

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An applicant may present his case before the Tribunal in person, in either the written or oral proceedings. Subject to article 7 of these rules, he may designate a staff member of the United Nations or one of the organizations referred to in article 14 of the Statute so to represent him, or may be represented by counsel authorised to practice in any country a member of the organisation concerned. The President or, when the Tribunal is in session, the Tribunal may permit an applicant to be represented by a retired staff member of the United Nations or one of the above-specified organizations.

**RULES OF THE ADMINISTRATIVE TRIBUNAL
OF THE UNITED NATIONS**

Chapter IV. Oral proceedings

**Chapter V. Additional documentation
during the proceedings**

**Chapter VI. Remand of a case under
Article 3, Paragraph 2. of the
statute**

Chapter VII. Intervention

ARTICLE 19

1. Any person to whom the Tribunal is open under article 2, paragraph 2, and article 14 of the Statute may apply to intervene in a case at any stage thereof on the ground that he has a right which may be affected by the judgement to be given by the Tribunal. He shall for that purpose draw up and file an application in form of annex I for intervention in accordance with the conditions laid down in this article.

ARTICLE 20

The Secretary-General of the United Nations, the chief administrative officer of a specialised agency to which the competence of the Tribunal has been extended in accordance with the Statute, or the Chairman of the Joint Staff Pension Board, may, on giving previous notice to the President of the Tribunal, intervene at any stage, if they consider that their respective administrations may be affected by the judgement to be given by the Tribunal.

**Chapter VIII. Applications Alleging
Non-Observance of the Regulations of
the United Nations Joint Staff
Pension Fund**

Chapter IX. Miscellaneous Provisions

ARTICLE 23

1. The Tribunal may grant a hearing, for purposes of information, to persons to whom the Tribunal is open under paragraph 2 of article 2 of the Statute even though they are not parties to the case, whenever such persons may be expected to furnish information pertinent to the case.

**REVISIONS PROPOSED BY TEE
SECRETARY-GENERAL**

Chapter XV. oral proceedings

**Chapter V. Additional documentation
during the proceedings**

**Chapter VI. Remand of a case under
Article 9, Paragraph 2, of the
statute**

Chapter VII. Intervention

ARTICLE 19

1. Any person to whom the Tribunal is open under article 2. 2 tres or 14 of the Statute may apply to intervene in a case at any stage thereof on the ground that he has a right which may be affected by the judgement to be given by the Tribunal. He shall for that purpose draw up and file an application in form of annex II for intervention in accordance with the conditions laid down in this article.

ARTICLE 20

The Secretary-General of the United Nations, the chief administrative officer of a" organisation referred to in article 14 of the statute to which the competence of the Tribunal has been extended in accordance with the Statute, or the Secretary of the Joint Staff Pension Board, may, on giving previous notice to the President of the Tribunal, intervene at any stage, if they consider that their respective administrations may be affected by the judgement to be given by the Tribunal.

**Chapter VIII. Applications Alleging
Non-Observance of the Regulations of
the United Nations Joint Staff
Pension Fund**

Chapter IX. Miscellaneous Provisions

ARTICLE 23

2{1} The Tribunal, at its discretion, may grant a hearing to any other person or entity expected to furnish information pertinent to the case.

**REVISIONS RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS**

Chapter IV. Oral proceedings

**Chapter V. Additional documentation
during the proceedings**

**Chapter VI. Remand of a case under
Article 9, Paragraph 2, of the
Statute**

Chapter VII. Intervention

ARTICLE 19

1. Any person to whom the Tribunal is open under article 2, 2 tres or 14 of the Statute may apply to intervene in a case at any stage thereof on the ground that he has a right which may be affected by the judgement to be given by the Tribunal. He shall for that purpose draw up and file a" application in form of annex II for intervention in accordance with the conditions laid down in this article.

ARTICLE 20

The Secretary-General of the United Nations, the chief administrative officer of a" organisation referred to in article 14 of the Statute to which the competence of the Tribunal has been extended in accordance with the Statute, or the Secretary of the Joint Staff Pension Board, may, on giving previous notice to the President of the Tribunal, intervene at any stage, if they consider that their respective administrations may be affected by the judgement to be given by the Tribunal.

**Chapter VIII. Application* Alleging
Non-Observance of the Regulations of
the United Nations Joint Staff
Pension Fund**

Chapter IX. Miscellaneous Provisions

ARTICLE 23

The Tribunal, at its discretion, may grant a hearing to a person or entity (including recognized staff representative organs) that it believes may be able to furnish information pertinent to the case.

**RULES OF THE ADMINISTRATIVE TRIBUNAL
OF THE UNITED NATIONS**

**REVISIONS PROPOSED BY THE
SECRETARY-GENERAL**

**REVISIONS RESULTING FROM INFORMAL
INTER-SESSIONAL CONSULTATIONS**

2. **The Tribunal may, in its discretion, grant a hearing to duly authorised representatives of the staff association of the organization concerned.**

1[2] **The Tribunal may grant a hearing to recognised representatives of staff representative organs of the organisation concerned.**

ARTICLE 24

ARTICLE 24

ARTICLE 24

The Tribunal or, in the interval between its sessions, the President or the presiding member may shorten or extend any time limit fixed by these rules.

1. *The Tribunal or, in the interval between its sessions, the President or the presiding member may shorten or extend any time limit fixed by these rules.*

The Tribunal or, in the interval between its sessions, the President or the presiding member may shorten or extend any time limit fixed by these rules.

2. **The Tribunal shall appropriately suspend the provisions as to time limits in these rules and in article 7 of the Statute if the respondent has proposed to a prospective applicant that he delay the submission of an application pending the judgement of the Tribunal on another application raising similar issues, should the dispute with the prospective applicant not be satisfactorily resolved after such judgement has been rendered.**

(Proposed New Chapters)

(Proposed New Chapters)

A. Conduct of proceedings under subparagraphs 2A(a)-(c) of article 2 of the statute (applications from other than staff members)

A. Conduct of proceedings under subparagraph 2A(a)-(c) of article 2 of the statute (applications from other than staff members)¹

B. Conduct of proceedings pursuant to article 2 bis relating to a claim by the employing organization

B. Conduct of proceedings pursuant to article 2 bis relating to a claim by the employing organization

C. Conduct of advisory proceedings pursuant to article 2 quatro of the statute

D. Conduct of revision proceedings under article 12(1) of the statute

D. Conduct of revision proceedings under article 12(1) of the statute

E. Conduct of correction proceedings under article 12(2) of the statute

E. Conduct of correction proceedings under article 12(2) of the statute

F. Conduct of interpretation proceedings under article 12(4) of the statute

F. Conduct of interpretation proceedings under article 12(4) of the statute

G. Award of costs pursuant to article 9(2A) of the statute

G. Award of costs pursuant to article 9(2A) of the statute

H. Selection, terms of appointment and functioning of the Assessor pursuant to article 5 bis of the statute

I. Joint proceedings with the Administrative Tribunal of the International Labour Organisation

ANNEX III

Harmonisation and further development of the statutes, rules and practices of the administrative tribunals of the International Labour Organisation and of the United Nations

The General Assembly,

Recalling its resolution 351 A (IV) of 24 November 1949, by which it established the United Nations Administrative Tribunal and adopted the statute of the Tribunal, and resolutions 782 B (VIII) of 9 December 1953 and 957 (X) of 8 November 1955 by which it amended that statute,

Recalling also its resolution 42/217 of 21 December 1987, in which it took note of the report of the Secretary-General entitled "Feasibility of establishing a single administrative tribunal",^{1/}

Having considered the report of the Secretary-General^{2/} in which the Secretary-General reported on the consultations held among Member States on this matter and the proposals resulting therefrom,

1. Decides to amend the statute of the United Nations Administrative Tribunal, effective 1 January 1989 with respect to judgements rendered by the Tribunal thereafter, as specified in annex I to the report of the Secretary-General;

2. Requests the United Nations Administrative Tribunal to consider amending the rules of the Tribunal along the lines indicated in annex II to the report of the Secretary-General to the General Assembly at its forty-second session,^{1/} taking into account the outcome of the consultations on that report and of the debates at the current session of the Assembly;

3. Recommends that the International Labour Organisation consider amending the statute of its Administrative Tribunal and that the Tribunal amend its rules along the lines indicated in the report of the Secretary-General;

4. Withdraws the recommendation set out in paragraph 2 of its resolution 957 (X), on the understanding that it is for the International Court of Justice to determine its own procedure in each particular case in accordance with its statute and the rules of the Court;

1/ A/42/328.

2/ A/43/704.

5. **Recommends** that the • dqnirtrativo tribunal@ of the United Nations and of the International Labour Organisation continue their informal contacts, through meetings and otherwise, for the resolution of common problems and issues and for the • rahangr of information about their respective jurisprudence, and also continue their efforts with regard to the • rtiliahmrt of a joint index of judgements;

6. **Further recommends** that thr Secretary-General of thr United Nationr and the Director-General of the International Labour Organisation, at an appropriate time, should undertake a joint rtudy to oonaidar thr feasibility of the two tribunals • ddroaing formal requests to one another for opinions on particular cases and the poraibility of jointly considering related cases;

7. **Requests** the Secretary-General, in his capacity as Chairman of the Administrative Committee on Co-ordination, to assist thr tribunals in carrying out the recommendations rat out in paragraphs 5 and 6 above;

8. **Requests** the Secretary-General to study the question of securing recognition by, and the • nforoability through, national courtr of Tribunal judgements concerning a olaim by an employing organiaationr

9. **Requests** the Secretary-General to announce each rendered judgement of the United Natioaa Administrative Tribunal in the Journal of thr United Nationr, which • nnounoamont should also contain information on the availability, upon request, of oopira of the judgement;

10. **Requests** the Secretary-General to inaluda in the booklet sent to prospective • pplioata, in addition to thr text of the rtatutr and rules of procedure of the United Nations Adminirtrativo Tribunal, the text of the rules of procedure of the Committee on Applioationa for Review of Adminirtrativo Tribunal Judgements;

11. **Recommends** that the Executive Secretary of the Administrative Tribunal, in aommunioating a aopy of the Tribunal's judgement to thr applicant, rould call attention to the review procedure provided for in article 11 of its statute and the time-limit contained therein for the aubmirrion of applications to the Committee on Applications for Review of Administtrative Tribunal Judgements;

12. **Requests** that the Committee on Applications for Review of Administrative Tribunal Judgements amend its rules of procedure to correspond to the changes in the statute of the United Natioaa Administrative Tribunal and that the Committee clarify its time-limits with regard to the submission of applications to it,
