



General Assembly

Distr.
General

A/C.5/41/8
29 September 1986

ORIGINAL: ENGLISH

Forty-first session
FIFTH COMMITTEE
Agenda item 113 (c)

ADMINISTRATIVE AND BUDGETARY CO-ORDINATION OF THE UNITED NATIONS WITH THE SPECIALIZED AGENCIES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY: FEASIBILITY OF ESTABLISHING A SINGLE ADMINISTRATIVE TRIBUNAL

Report of the Secretary-General

1. As noted in the annotated preliminary list of items for the provisional agenda of the present session (A/41/100, item 116 (c), pp. 330-331), read together with the introduction to the report submitted by the Secretary-General to the General Assembly at its fortieth session (A/40/471, paras. 1-8), this item has been on the agenda of the Assembly since its thirty-fourth session. After extensive consultations with the heads of other organizations participating in the common system of staff administration, and in particular with the Director-General of the International Labour Office, with representatives of the staff of the United Nations and of the other common system organizations, as well as with the United Nations Administrative Tribunal (UNAT), the United Nations Joint Staff Pension Board (UNJSPB) and the President and Registrar of the International Court of Justice, the Secretary-General presented at the thirty-ninth session a report (A/C.5/39/7 and Corr.1) proposing certain reforms relating to the statutes, rules and practices of UNAT and discussing the corresponding proposals being advanced in respect of the Administrative Tribunal of the International Labour Organisation (ILOAT); the report contained sets of proposed revisions of the UNAT statute and rules, both presented with comparisons of the corresponding changes being recommended in respect of the ILOAT statute and rules, as well as the elements of a draft General Assembly resolution to implement those proposals (*ibid.*, annex I, A-C). After preliminary consideration by the Fifth Committee, consultations took place between its Chairman and that of the Sixth Committee as to how that Committee might contribute to the consideration of the Secretary-General's proposals. On the recommendation of the Fifth 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 examination of the matter (decision 39/450). After further consultations with ILO, the

Secretary-General at the fortieth session resubmitted, with just a few additions, substantially the same sets of proposals he had advanced previously (A/40/471). On the recommendation of the Fifth Committee, the Assembly again decided to defer consideration of the Secretary-General's report to the forty-first session (decision 40/465).

2. Since the Secretary-General's report on this item last year, ILO has given further consideration to matters relating to its Administrative Tribunal and in particular to the further development of its statutes and rules and their harmonization with those of UNAT. In particular, on the basis of a proposal by the Director-General addressed to the Programme, Financial and Administrative Committee of the ILO Governing Body at its 231st session in November 1985, 1/ the Committee established a small tripartite working group that met briefly before the 232nd session of the Governing Body in February 1986 and began consideration, with the assistance of the International Labour Office, of the significance and extent of the proposed amendments to the statutes of the two Tribunals. Pending substantive consideration by the General Assembly of the proposals submitted to it, the Governing Body took no action on the report of the working group or on the parallel proposal of the Director-General. However, at the 233rd session of the Governing Body in May and June 1986, the latter, at the request of ILOAT motivated by its growing case-load and as proposed by the Director-General, 2/ recommended to the ILO General Conference an amendment of article III, paragraph 1, of the ILOAT statute, to increase the number of deputy judges from three to four; as that recommendation was accepted by the Conference, 3/ ILOAT now has as many judges plus deputy judges as the number of members of both UNAT and the World Bank Administrative Tribunal, namely seven.

3. The only other relevant developments are the following:

(a) On the reconstitution of the United Nations Industrial Development Organization (UNIDO) as a specialized agency, its Industrial Development Board and General Conference decided, 4/ on the recommendation of its Director-General, 5/ that appeals from members of its staff should be addressed to ILOAT, rather than to UNAT as was previously the case when they were members of the United Nations Secretariat; only in respect of UNJSPB decisions will UNIDO staff continue to address UNAT. 6/

(b) During the past year, seven more applications were addressed, by individual applicants, to the Committee on Applications for Review of Administrative Tribunal Judgements, bringing the total to 42; the Committee declined to address questions to the International Court of Justice in respect of any of the challenged judgements. 7/ In respect of the Yakimetz case (UNAT Judgement No. 333), the Court's reply is still pending.

4. As the previously submitted sets of draft amendments to the UNAT statute and the other related proposals were not the subject of any substantive discussions in the General Assembly, the Secretary-General considered that there was no occasion to revise those drafts at the current stage. Therefore, in an effort to economize by not reissuing the lengthy document containing these proposals, it is suggested that the Fifth Committee may at the present session use as the basis of its consideration the proposals as they appear in annex I, A to C of document A/40/471. Copies of this document will be available in the Conference Room.

Notes

- 1/ ILO document GB.231/PFA/17/5, para. 4.
- 2/ ILO document GB.233/PFA/8/14.
- 3/ International Labour Conference, provisional record, Seventy-second Session (Geneva, 1986), Nos. 18 and 25.
- 4/ By decisions IDB.1/DEC.20 and GC.1/DEC.36 respectively.
- 5/ UNIDO document UNIDO/IDB.1/15, para. 8.
- 6/ The necessary agreement between the Secretary-General of the United Nations and the Director-General of UNIDO entered into force on 7 February 1986. Consequently, annex III to document A/40/471 should be amended by adding "United Nations Industrial Development Organization (UNIDO)" under category C.
- 7/ This revises the data in the antepenultimate sentence of paragraph 70 (c) of document A/40/471.
