



SUMMARY RECORD OF THE 49th MEETING

Chairman: Mr. KUYAMA (Japan)

later: Mr. MAYCOCK (Barbados)

Chairman of the Advisory Committee on Administrative and
Budgetary Questions: Mr. MSELLE

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The meeting was called to order at 4.15 p.m.

AGENDA ITEM 107: JOINT INSPECTION UNIT: REPORTS OF THE JOINT INSPECTION UNIT
(continued) (A/37/34, A/37/103; A/C.5/37/28, A/C.5/37/L.25/Rev.1)

1. Mr. MAYCOCK (Barbados), introducing draft resolution A/C.5/37/L.25/Rev.1, said that the sponsors felt that there was room for improvement in the way the recommendations of the Joint Inspection Unit were considered. The existing procedure placed a burden on the Secretary-General, who had to decide which recommendations should be implemented; it was gratifying that JIU itself had dealt with that question. The report of the Secretary-General on the implementation of the recommendations of the Unit (A/C.5/37/28) was not particularly clear.
2. The CHAIRMAN invited the Committee to adopt draft resolution A/C.5/37/L.25/Rev.1.
3. It was so decided.
4. Mr. Maycock (Barbados) took the Chair.

AGENDA ITEM 103: PROGRAMME BUDGET FOR THE BIENNIUM 1982-1983 (continued)
(A/C.5/37/51)

5. Mr. GODFREY (New Zealand) said that the special review of the ongoing work programme of the United Nations undertaken pursuant to General Assembly resolution 36/239 had generally been welcomed by delegations. The expectation had been that the review would have an immediate effect in restraining budgetary costs, but some delegations had been disappointed by the delay in taking action. It was regrettable, in that connection, that document A/C.5/37/51 had not been distributed earlier. The intent of the resolution had been that the Fifth Committee should undertake substantive consideration of the special review at the current session, and his delegation trusted that that would still be possible, despite the delay. The Advisory Committee on Administrative and Budgetary Questions and the Committee itself should give priority to the matter.
6. The CHAIRMAN said that the Bureau would endeavour to expedite consideration of the topic.

Administrative and financial implications of draft resolution A/C.2/37/L.29, concerning agenda item 71 (j) (A/C.5/37/35)

7. The CHAIRMAN said that the Chairman of the Advisory Committee on Administrative and Budgetary Questions concurred in the Secretary-General's estimates.
8. Mr. LADOR (Israel) said that his delegation had voted against the draft resolution in the Second Committee. If a vote was taken on the administrative and financial implications of adopting the proposal, it would vote against their approval.

9. The CHAIRMAN suggested that, on the basis of the recommendation of the Advisory Committee, the Fifth Committee should inform the General Assembly that, should it adopt draft resolution A/C.2/37/L.29, an additional appropriation of \$95,900 would be required under section 19 of the programme budget for the biennium 1982-1983. He invited the Committee to vote on the recommendation.

10. The recommendation of the Advisory Committee for an additional appropriation of \$95,900 under section 19 for the biennium 1982-1983 was approved by 84 votes to 2, with no abstentions.

Report of the Committee of Governmental Experts to Evaluate the Present Structure of the Secretariat in the Administrative, Finance and Personnel Areas (A/37/44)

11. Mr. SLØRDAHL (Norway), speaking on behalf of the Nordic countries, said that significant changes had taken place in the Secretariat since the Fifth Committee last considered the matter. The new Secretary-General had emphasized his commitment to the effective discharge of his functions as the chief administrative officer of the United Nations, so as to bring the full impact of an efficient Secretariat to bear on the efforts of the community of nations to achieve the aims embodied in the Charter. The Secretary-General had found it necessary to improve cohesion in the central administrative services, in order to improve both administration and the Organization's capacity to undertake the policy changes mandated by the General Assembly.

12. The Committee of Governmental Experts had recognized that the Secretary-General, as the chief administrative officer designated in Article 97 of the Charter, was primarily responsible for the structure of the Secretariat. It had noted that the effectiveness and structure of the Secretariat were of concern to the General Assembly also, since it provided policy guidance to the Secretary-General. Accordingly, and in view of the expressed intention of the Secretary-General to keep the effectiveness of the administrative structure under continuous review, the Committee had made no recommendations in its report although it had offered certain suggestions.

13. The Secretary-General had stated his firm belief that the existing structure of a unified, closely integrated department of administration should continue under a single official having clearly identified overall responsibility and authority, as the Secretary-General's representative in administrative matters. The authority and role of the Office of Personnel Services (OPS), as part of the Department of Administration and Management, was quite clear. It was the responsibility of OPS, as the focal point for personnel policy, to administer the staff of the Secretariat, to develop and maintain a coherent personnel policy and to ensure the implementation of all personnel measures decided upon by the General Assembly.

14. The Secretary-General intended to cancel the interim measures taken to ensure that the Office of Personnel Services had the necessary authority to implement the policies outlined in General Assembly resolutions. The relationship of OPS with other components of the Organization was important in that regard. The Committee of Governmental Experts had stressed the role of OPS in the promotion of a modern

(Mr. Slørdahl, Norway)

personnel management system, through the training and development of the staff. The Committee also felt that the role of OPS should be considered in the context of the continuous review by the Secretary-General of the administrative structure and of administrative decentralization and central control and co-ordination.

15. The Nordic delegations took the view that the Secretary-General should be given an opportunity to follow up his general views on the administrative structure, and agreed with the cancellation of the interim measures. They also agreed with the considerations raised by the Committee in paragraphs 20-22 of its report.

16. As an initial step towards integrating programme planning and the budgeting-monitoring-reporting system and with a view to improving management practices, the Secretary-General had established a new Programme Planning and Budgeting Board. The Committee of Governmental Experts had found that while there was some merit in the establishment of the Board, it could not fulfil the need for integration of the whole system of programme planning, budgeting, monitoring and reporting. The Committee had highlighted the need for a single entity with responsibility in those areas, a view which the Nordic delegations fully supported. There should be a single organizational unit within the Secretariat, combining the functions of the Office for Programme Planning and Co-ordination and the Budget Division, with expanded responsibilities, including monitoring and reporting functions.

17. The Committee of Governmental Experts had in its previous report raised the question of developing effective management tools based on modern information systems, in order to improve the effectiveness of the administrative, finance and personnel areas by reviewing the roles of the Administrative Management Service and the Electronic Data Processing and Information Systems Division. The Secretary-General had expressed his interest in that question and had requested the Under-Secretary-General for Administration and Management to report on any improvements which seemed necessary.

18. The Committee had pointed out that the question of higher management effectiveness covered a much wider field than new technology and systems. One expert had proposed a review of the management development function as a whole, and had indicated the need for an overall management strategy and a management improvement and development programme. The Nordic delegations supported that view, and considered that those proposals should be elaborated and presented to the Secretary-General for a decision.

19. In conclusion, he said that the Nordic delegations were extremely gratified by the attitude taken by the Secretary-General with regard to his administrative functions and the improvement of the Secretariat's effectiveness. They would do their utmost to support him and his staff in that endeavour, given its great significance to the Organization.

20. Mr. GARRIDO (Philippines) welcomed the report of the Committee of Governmental Experts (A/37/44). An appropriate administrative structure was a vital part of a

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(Mr. Garrido, Philippines)

Secretariat displaying the standards of efficiency, competence and integrity that Member States so often called for. His delegation acknowledged the importance of the role of the Secretary-General as defined in Article 97 of the Charter, and believed that the Secretary-General needed to have under his direction an entity such as the Department of Administration and Management. His delegation was gratified to note that the Offices within the Department, which formed the backbone of the Secretariat, were in the hands of long-serving, competent staff. The duties of the Executive Office of the Secretary-General should not conflict with the responsibilities of the Department of Administration and Management. In particular, the authority and functions of the Office of Personnel Services should not be open to question.

21. The Committee of Governmental Experts had given priority to seeking a balance between decentralization and centralized control. His delegation regarded such a balance as important, in view of the vast extent of the Secretariat. The establishment of the Programme Planning and Budgeting Board would enhance the effectiveness of the Director-General for Development and International Economic Co-operation; he hoped that the Board would also ensure that budget proposals fully reflected the instructions of the General Assembly. He supported the view that the General Assembly had unquestioned authority to determine the structure of the Secretariat.

22. The Committee had lived up to the responsibilities assigned to it and should continue to exercise its mandate.

23. Mr. LAHLOU (Morocco) said that it would be easy to reorganize the administrative structure of the Secretariat if that proved necessary at some future date because the Committee of Governmental Experts had made it clear which functions belonged to the General Assembly and which to the Secretary-General.

24. As to the fundamental question addressed by that Committee - whether the existing structure of the Secretariat made for policy coherence - his delegation believed in the concept of hierarchy and felt that the Secretary-General held sole authority as the head of the Organization. It was prepared to accept whatever structure the Secretary-General proposed, while hoping that the Secretary-General would accept the idea of a single department under a single head to be responsible for the administrative management of the Secretariat.

25. The personnel structure that had existed since the inception of the Secretariat was, in his delegation's view, the right one; it might be improved but should not be radically changed. The administrative hierarchy of the United Nations should be a pyramidal structure; a parallel arrangement would not benefit the Organization. The key figure responsible for personnel policy in the Organization should be backed by the full authority of the Secretary-General.

26. The Executive Office of the Secretary-General, like its counterpart in any large company, was mysterious in its workings. That fact should not bother the Fifth Committee, however, since responsibility for any abuse of the powers of the Executive Office lay with the Secretary-General.

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(Mr. Lahlou, Morocco)

27. Careful consideration must be given to the Secretary-General's view that administrative decentralization and co-ordination were vital to the Organization. The likelihood was, however, that in his management of the Organization, the Secretary-General came into contact with no more than 50 people, all of whom would doubtless always assure him that the Organization was functioning satisfactorily. The Secretary-General therefore needed a central monitoring unit to investigate all aspects of the management of the Organization. Such a unit was not likely to be popular, but it would be feared and respected.

28. In his delegation's view, the role of the Director-General for Development and International Economic Co-operation should not be discussed in the context of administrative and personnel matters, since it had already been clearly established.

29. The Fifth Committee needed to approach the subject of the programme planning with caution, since the matter was already under discussion elsewhere. His delegation did believe, however, that the flow of ideas among those responsible for programming and the management of the Organization in the Programme Planning and Budgeting Board would, in the long run, prove constructive.

30. The report under consideration clearly identified the roles that both AMS and EDPIS could play in providing the Organization with management tools. EDPIS, in particular, provided the management units of the Organization with the kind of technical backstopping they required.

31. In conclusion, he welcomed the restoration of the office of Controller to the administrative structure of the Secretariat.

AGENDA ITEM 111: PERSONNEL QUESTIONS (continued)

(c) OTHER PERSONNEL QUESTIONS

Amendment of the Staff Regulations (A/C.5/37/54)

32. Miss DOSS (Assistant Secretary-General for Personnel Services) said that the purpose of the amendments to the staff regulations proposed by the Secretary-General in document A/C.5/37/54 was to recognize the fact that the staff of the United Nations were no longer concentrated primarily at Headquarters, but were working in units that had been set up over the years, in many different places. The proposed amendments would accord recognition to staff representative bodies at many duty stations and involve the staff in decisions affecting their welfare and personnel policies.

33. Mr. BELYAEV (Byelorussian Soviet Socialist Republic) asked why the proposed amendments to the Staff Regulations had been submitted so late - a full three weeks after the Committee had begun its discussion of personnel questions, when most delegations had already made their statements on the subject. He was tempted to suggest that it was unnecessary, in the circumstances, to reopen debate under the item.

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(Mr. Belyaev, Byelorussian SSR)

34. The proposed change in the Staff Regulations seemed, on the face of it, to be minor. In fact, however, the amendment to regulation 8.1 would completely alter the emphasis of that provision. As matters stood, the purpose of the Staff Council was ensuring continuous contact between the staff and the Secretary-General; under the new proposal, however, the Secretary-General would be required to establish and maintain continuous contact and communication with the staff. Which staff the Secretary-General was supposed to establish contact with was not specified: there was only one Secretary-General, but an indefinite number of staff bodies and unions. Likewise, although delegations did not know who would be empowered to establish such a union, under the new proposal every union would nevertheless be able to communicate with the Secretary-General. His delegation believed it was perfectly possible, under the existing regulations, for staff bodies away from Headquarters to communicate their views to the Staff Council at Headquarters, and for the Staff Council then to establish contact with the Secretary-General.

35. The note by the Secretary-General used new and unfamiliar terms, such as "staff management". It was not clear to which category - staff or management - the Secretary-General or, say, a director at the D-2 level belonged. He was unhappy about the use of such abstract terms.

36. His delegation was unwilling to take a decision on the Secretary-General's proposal at the moment. The Committee had little time left and a great deal to do, and the best course would be to defer consideration of the subject until the following session. If the matter had to be dealt with at the current session, his delegation would feel obliged to analyse the Secretary-General's proposals sentence by sentence and line by line.

37. Mr. KUDRYAVTSEV (Union of Soviet Socialist Republics) agreed with the Byelorussian representative that the late submission of the Secretary-General's proposals had put the Fifth Committee in a very difficult position. It would indeed be wise not to begin serious discussion of the proposals. If the matter was discussed, however, his delegation would want to know how much the existing joint administrative machinery and the Staff/Management Co-ordination Committee cost to run, and what the financial implications of the Secretary-General's proposals were.

38. Article 15 of the statute of ICSC provided that the Commission should make recommendations to the United Nations and other organizations on the development of common staff regulations. It would be sensible, in the circumstances, to refer the Secretary-General's proposals to ICSC for consideration and comment, and to take them up, together with the Commission's comments, at the thirty-eighth session.

39. Mr. GODFREY (New Zealand) said that he shared some of the Byelorussian representative's misgivings about the late submission of the document but did not think that in itself justified deferring its consideration. His delegation supported the changes proposed by the Secretary-General and believed that the Fifth Committee should approve them before the end of the session. In his view, paragraph 4 (c) of the Secretary-General's note (A/C.5/37/54) made it clear that there would be only one spokesperson for the staff at a time and provided a number

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of other safeguards. Since the changes related solely to the United Nations, it would not be necessary to refer the matter to the ICSC, which was concerned with matters affecting the common system.

40. Miss DOSS (Assistant Secretary-General for Personnel Services) said that the changes proposed by the Secretary-General had no financial implications and would merely bring the Staff Regulations into line with the existing situation. The Staff-Management Co-ordination Committee referred to in paragraph 4 (d), consisting of the staff and management representatives of the various duty stations, had been established in 1980 and met twice a year. The proposed changes simply recognized that fact.

41. The CHAIRMAN suggested that the Committee should revert to the proposed amendment of the Staff Regulations at a future meeting.

42. It was so decided.

Repatriation grant (A/37/675, A/C.5/37/26)

43. Mr. MSELLE (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the Advisory Committee's report (A/37/675), said that, in preparing its report, the Advisory Committee had decided not to go into the details of the Mortished case nor to describe the various legal aspects of the question, as they were already covered in Judgement No. 273 of the Administrative Tribunal and in the Advisory Opinion of the International Court of Justice. Paragraphs 1 to 3 of the report therefore, simply stated the Advisory Committee's decision not to contest the Secretary-General's conclusion and intention as stated in paragraph 4 of his note (A/C.5/37/26). The Secretary-General had informed the Advisory Committee that it might not be cost-effective to litigate all cases similar to the Mortished case. Since the Committee had been given to understand that the Mortished case had been a test case and was thus representative of all similar cases, it had had no grounds on which to recommend a course of action different from that intended by the Secretary-General.

44. In paragraphs 4 and 5 of the report, however, the Advisory Committee made two important observations. It pointed out to the General Assembly that the sequence of events since the repatriation grant had been made payable to all expatriate staff irrespective of actual relocation had resulted in a situation that was not consistent with the intent and purpose of the grant as originally conceived. While the Advisory Committee conceded that that was unfortunate, it believed, as indicated in paragraph 5, that the circumstances surrounding the question could serve as a valuable lesson. Corrective action should be taken to ensure that in future acquired rights would not be based on applications of the Staff Regulations that were contrary to the General Assembly's intent.

45. The steps recommended by the Advisory Committee were outlined in paragraph 6 and the following paragraphs. The first recommendation was for an amendment to the introductory paragraph of annex IV to the Staff Regulations so that the Regulations

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would conform to what the Assembly had already decided. It would be a technical amendment merely restating what was already in practice and would not in itself change anything. By virtue of General Assembly resolution 34/165, the Secretary-General was already required to apply the rules so as to ensure that effective on 1 January 1980 no staff member would be entitled to any part of the repatriation grant unless evidence was provided of relocation away from the country of last duty station. The fact that the amendment to the Regulations would take effect from 1 January 1983 was merely technical: amendments to the Staff Regulations must be prospective. The proposed amendment to annex IV would not affect the Secretary-General's ability to settle claims similar to the Mortished case since the draft resolution proposed by the Advisory Committee would have the General Assembly endorse the Committee's conclusions and recommendations. As the amendment to annex IV originated in the draft resolution, it must clearly be interpreted in the light of that resolution.

46. Regarding paragraph 7, he noted that the corrective action envisaged by the Advisory Committee would help to minimize the impact of any problems that were disclosed by the Secretary-General.

47. Paragraphs 9 to 11 of the report dealt with the Advisory Committee's recommendations regarding the régime that would govern future staff rules promulgated by the Secretary-General. The current situation in regard to the effect of staff rules was as summarized in Judgement No. 273 of the Administrative Tribunal. The legal status of staff members was governed by the provisions of staff rules immediately on their entry into force. When the Administrative Tribunal had applied that reasoning to the specific situation of Mr. Mortished, it had arrived at the conclusion that by making payment conditional on the production of evidence of relocation the Secretary-General had failed to recognize the applicant's acquired right which he held by virtue of the transitional system in force from 1 July to 31 December 1979 and set forth in staff rule 109.5 (f).

48. The main purpose of the Advisory Committee's recommendation in paragraph 12 regarding the rule-making authority of the Secretary-General was to ensure that, in future, the General Assembly would be able to see the rules while they were still provisional and not capable of giving rise to acquired rights. Should the Assembly find that a particular provisional rule or amendment was inconsistent with the intent and purpose of the Regulations, it could direct that the rule or amendment be withdrawn or modified. If the Committee's proposal had been in operation between 1 July and 31 December 1979, it would have been very difficult for a case to be made regarding acquired rights under rule 109.5 (f).

49. The new procedure recommended need not impose another layer of bureaucracy, as might be feared. The reporting by the Secretary-General to the Assembly of provisional rules or amendments would involve no more than the current procedure. The administration of the staff need not be held in suspense with regard to provisional rules, since provisional rules could be used by the Secretary-General to administer the staff pending action, if any, by the Assembly. According to the Advisory Committee's recommendation the General Assembly must raise any objections

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before 1 January following the year in which the rule was reported to it. If it did not act within the time specified, the provisional rule would come into full force.

50. In commending the report to the Fifth Committee, together with the proposals contained in its annex II, he wished to stress one particularly troubling aspect of the question. There had been much argument purporting to show that the General Assembly had somehow infringed on the acquired rights of the staff. He emphasized that the Assembly had never abolished the payment of the repatriation grant. Had it done so, the argument that the acquired rights of staff had been infringed would have been justified. The point was that the Assembly had never authorized the payment of the grant to those staff members who had not relocated from the country of their last duty station. The gist of the Advisory Committee's report was that anything that was done contrary to a resolution of the General Assembly could not and should not give rise to an acquired right. He hoped that, in future, when such matters were considered, the Assembly would review them with the lesson of the question of the repatriation grant fully in mind.

The meeting rose at 6.10 p.m.