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Chairman: Mr. Pote SARASIN (Thailand).

AGENDA ITEM 48

Awards of compensation made by the United Nations Administrative Tribunal: advisory opinion of the International Court of Justice (A/2701, A/2837; A/C.5/607; A/C.5/L.321/Rev.1, A/C.5/L.322/Rev.1) (*continued*)

1. Mr. RIZK (Lebanon) reminded the Committee that at the 479th meeting he had proposed that the words "any Member" in the revised six-Power draft resolution (A/C.5/L.321/Rev.1), part B, paragraph 4, should be replaced by "any ten Member States"; he asked whether the sponsors would agree to that proposal.
2. Mr. CUTTS (Australia) and Mr. FULBRIGHT (United States of America) accepted the Lebanese proposal. Mr. Cutts pointed out that the word "other" in part B, paragraph 4, should be replaced by the word "such".
3. Mr. MELO LECAROS (Chile) accepted the Lebanese proposal reluctantly because in his view the number now required (ten) was too large.
4. Mr. ROUSSOS (Greece) heartily welcomed the Lebanese proposal, which he thought considerably improved paragraph 4 of part B of the revised draft resolution.
5. Mr. GUNDERSEN (Norway) said he could not accept the principle that one or more Member States should have the right to appeal against the Tribunal's judgments.
6. Mr. CHECHYOTKIN (Union of Soviet Socialist Republics) said that for the reasons he had already given he would not discuss the substance of the question with which the revised draft resolution was concerned. The USSR delegation agreed with the Court in so far as the Court's Advisory Opinion¹ confirmed the position the Soviet Union had taken at the eighth session. First, the judgments delivered by the Tribunal in accordance with its Statute should be executed without further delay. Secondly, part B of the revised

draft resolution was unacceptable. Thirdly, part C provided for the establishment of an artificial organ which could have no other function than to apply any future amendments to the Statute.

7. The amendment (A/C.5/L.322/Rev.1) to the revised draft resolution really meant that the General Assembly should not alter the Tribunal's Statute. The first two paragraphs were concerned with procedure, and the USSR delegation would have no difficulty in accepting them; but the decisions envisaged in the last two paragraphs did not seem timely.

8. Unlike other delegations, which had wavered, the USSR delegation firmly maintained its position.

9. In reply to a question from Mr. SERRANO GARCIA (El Salvador), Mr. FULBRIGHT (United States of America) stated that in his view the members of the special committee should be appointed by the Chairman of the Fifth Committee, subject to the Committee's approval. There was no purpose in appointing them, however, until it was known whether the draft resolution was adopted.

10. The CHAIRMAN proposed that the Committee should take vote separately on the preamble and each operative part of the revised draft resolution (A/C.5/L.321/Rev.1), it being understood the amendment to part B would be put to the vote before part B itself.

11. Mr. CHECHYOTKIN (Union of Soviet Socialist Republics) asked for a separate vote on the third paragraph of the preamble.

The first two paragraphs of the preamble of the revised draft resolution (A/C.5/L.321/Rev.1) were adopted unanimously.

The third paragraph of the preamble was adopted by 49 votes to none, with 5 abstentions.

Part A was adopted unanimously.

After a brief discussion it was decided that the amendment (A/C.5/L.322/Rev.1) to part B of the revised draft resolution (A/C.5/L.321/Rev.1) should be put to the vote as a whole.

At the request of the representative of Argentina, a vote was taken by roll-calls.

Brazil, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Brazil, Burma, Byelorussian Soviet Socialist Republic, Costa Rica, Czechoslovakia, Denmark, Ecuador, Egypt, El Salvador, France, Iceland, India, Indonesia, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Poland, Saudi Arabia, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia, Belgium.

Against: Canada, Chile, China, Cuba, Dominican Republic, Greece, Guatemala, Honduras, Iran, Iraq,

¹Effect of awards of compensation made by the United Nations Administrative Tribunal, Advisory Opinion of July 13th, 1954: *I.C.J. Reports 1954*, p. 47; reproduced as A/2701.

Lebanon, Liberia, Nicaragua, Panama, Paraguay, Philippines, Thailand, Turkey, Union of South Africa, United States of America, Argentina, Australia, Bolivia.

Abstaining: Colombia, Israel, United Kingdom of Great Britain and Northern Ireland, Venezuela.

The amendment (A/C.5/L.322/Rev.1) to part B was adopted by 29 votes to 23, with 4 abstentions.

Part C of the revised draft resolution (A/C.5/L.321/Rev.1) was adopted by 50 votes to 5, with 1 abstention.

12. Mr. FULBRIGHT (United States of America) said his delegation had abstained on part C and, having voted against the amendment to part E, would vote against the draft resolution as a whole.

13. It was a matter of most serious concern to the United States delegation that the delegations of Member States which it had believed to be dedicated to the value of judicial process in the field of international relations had failed to meet it in its sincere effort to find agreement on the basis of judicial principle. It could not support a result that was not premised on the full application of that principle to the future as well as to the past.

14. The United States delegation believed that the Assembly would be jeopardizing the future of the Secretariat and the Organization if it maintained a decision which continued and re-emphasized past disagreements. It regretted that it had been unable sufficiently to impress other delegations with the importance of making some provision for the future to meet that problem.

15. The CHAIRMAN put the draft resolution as a whole, as amended, to the vote.

At the request of the representative of the United States of America, a vote was taken by roll-call.

India, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: India, Indonesia, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Saudi Arabia, Sweden, Syria, United Kingdom of Great Britain and Northern Ireland, Yemen, Yugoslavia, Australia, Belgium, Brazil, Burma, Costa Rica, Denmark, Ecuador, Egypt, El Salvador, France, Iceland.

Against: Turkey, United States of America, China.

Abstaining: Iran, Iraq, Israel, Lebanon, Liberia, Nicaragua, Panama, Paraguay, Philippines, Poland, Thailand, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, Venezuela, Argentina, Bolivia, Byelorussian Soviet Socialist Republic, Canada, Chile, Colombia, Cuba, Czechoslovakia, Dominican Republic, Greece, Guatemala, Honduras.

The draft resolution, as amended, was adopted by 26 votes to 3, with 27 abstentions.

16. Mr. CAFIERO (Argentina) said he had been obliged to abstain on the draft resolution as a whole because the adoption of the amendment had completely cancelled the results of the conciliatory efforts the sponsors of the resolution had made. The result of the vote was significant, and the Argentine delegation accordingly reserved the right to raise the question again in the General Assembly.

17. Miss PERERA (Cuba) associated herself with the Argentine representative's statement.

18. Mr. LIVERAN (Israel) said he had abstained on the amendment because he did not regard it as likely to achieve maximum support. For the same reason he had abstained on the draft resolution as a whole.

19. The Israel delegation regretted that the voting procedure adopted had not made it possible for him to express his opinion on part B of the revised draft resolution. In his view paragraphs 1, 2 and 3 of part B were acceptable, and a great many delegations would have been able to vote for them. On the other hand, he would have abstained on paragraph 4.

20. Mr. BRAVO CARO (Mexico) stated that he had voted for the draft resolution as amended because neither his delegation nor his Government had had time to take a decision, in full knowledge of the facts, on the preliminary question whether the principle of establishment of a procedure for review was acceptable. The proposed committee of fifteen members would be able to give that most important question careful consideration from every angle. His vote should not be interpreted to mean that the Mexican delegation was unfavourable towards the eventual adoption of provisions similar to one or other of those provided by part B of the draft resolution.

21. Mr. SAPRU (India) said he had voted both for the amendment and for the draft resolution as amended. The Indian delegation was not opposed to the establishment of a procedure for review, but felt that the question called for long reflection by Member States and that the question of principle could not be separated from the methods of application.

22. Mr. HASSAN (Pakistan) associated himself with the Indian representative's remarks.

23. Mr. TREJOS (Costa Rica) said he had voted for the amendment because the question of revision of the Tribunal's Statute was too important for a decision to be taken in haste at the eleventh hour of the ninth session. The fact was that the Committee had merely wondered whether the Assembly could review the Tribunal's judgments, not whether it was desirable to provide for an appeal. The Costa Rican delegation was in no sense opposed in principle to the establishment of a procedure for review, but, before any decision was taken, the question required careful study.

24. Mr. CARRIZOSA (Colombia) said that he had abstained on the amendment, because he agreed in principle that a review procedure should be introduced. He had had to abstain on the draft resolution as a whole for the same reason.

25. Mr. CUTTS (Australia) said that he had voted against the amendment but in favour of the draft resolution as a whole, as it was still acceptable to his delegation. However, he reserved the right to support any amendment to improve the draft resolution adopted by the Committee which might be proposed in plenary meeting. To do so, would not, he thought, be inconsistent with the position he had adopted in the Committee.

26. Mr. ROMANACCE CHALAS (Dominican Republic) said that he had voted against the amendment and abstained on the draft resolution as a whole. The

judgments of the International Court of Justice, the main judicial body of the United Nations, were final and without appeal (article 60 of the Statute of the Court), but were subject to revision (article 61). Logic required the General Assembly to introduce a procedure for reviewing the awards of the Administrative Tribunal, a subsidiary organ which at present seemed all-powerful, so that the United Nations would no longer be obliged to pay excessive indemnities under awards made on the basis of the opinion of two members.

AGENDA ITEM 38

Budget estimates for the financial year 1955 (A/2647, A/2688) (continued)

First reading (continued)

ESTIMATES OF MISCELLANEOUS INCOME (A/C.5/614)

27. Mr. RYBAR (Czechoslovakia) pointed out that the Secretary-General had estimated income from interest on investments, at \$140,000 for 1955, whereas the actual income under that item for 1953 had been \$176,000 (A/2647, pp. 106, 107).

28. One of the two factors which determined the volume of that income was the amount of funds which the United Nations could invest. In that respect the situation would be more favourable in 1955 than in previous years, as the Working Capital Fund had been increased by \$1,500,000 a few years previously and at the same time there would be less call upon it in future, because the 1955 budget would be smaller by a million dollars than the 1954 budget and Headquarters construction was practically complete. Moreover, as the Advisory Committee had observed in its report (A/2688, paragraph 47), it was improbable that any request for a considerable loan would be received during 1955 from specialized agencies; the situation had also improved in respect of the payment of contributions, as the Secretary-General had stated in paragraph 37 of his Foreword to the Budget Estimates for 1955 (A/2647).

29. The other factor governing the volume of income under Interest on investments was the rate of interest. The Czechoslovak delegation had already pointed out at the eighth session (403rd meeting) of the General Assembly that it was possible to find more advantageous investments for the available funds than United States Securities. It was therefore pleased to note the Investment Committee's recommendation that some other short-term securities should be purchased. It would also be profitable to undertake as much long-term investment as possible, as it yielded more. In that connexion, the Committee might do well to remember that European banks were willing to pay higher rates of interest on dollar accounts than American banks. More productive investments should therefore be sought for the available funds, including investments in non-dollar currencies.

30. The Czechoslovak delegation thought that it would be possible to achieve the same income in 1955 as in 1953, approximately \$180,000. It therefore proposed that the estimates of investment income in the 1955 budget should be increased by \$40,000. It considered that income under other headings might also be increased, and it was prepared to support any proposal to that effect.

31. Mr. KUDRYAVTSEV (Byelorussian Soviet Socialist Republic) observed that the estimated income for 1955 was smaller than the actual income for 1953. It was true that the Advisory Committee had recommended that the Secretary-General's estimate should be increased by \$10,000, but it had not taken account of all the available opportunities, such as those the Czechoslovak representative had just mentioned. The Byelorussian delegation therefore supported the Czechoslovak proposal.

32. In its report (A/2688, paragraphs 248 and 249), the Advisory Committee had mentioned that some sources of income could be exploited further, including income from the sale of publications and from United Nations stamps. It should also be remembered, as the Byelorussian representative had pointed out (403rd meeting) at the eighth session, that the specialized agencies paid a sum which fell far short of the cost for the services the United Nations rendered them. Negotiations were proceeding on arrangements between the United Nations and the specialized agencies concerning payment for such services. He therefore proposed that the amount under the heading Reimbursement for staff and services furnished to specialized agencies and others, should be increased by \$15,000.

33. Mr. ANDERSEN (Secretariat) explained, in reply to the Czechoslovak representative, that, after the budget estimates had been prepared, the situation in respect of payment of contributions had indeed improved in comparison with previous years. It was, however, impossible to foresee whether the improvement would be maintained, and the total submitted for income was a very conservative estimate. It would not be in the interest of Member States for the Secretary-General to budget for an unrealistically large income.

34. With regard to the rate of interest, the Secretary-General had sought the advice of the Investments Committee, which had recommended investment in short-term finance companies' securities and also banker's acceptances. The yield on the securities of finance companies average 1.25 per cent for ninety days, while the yield on United States Treasury Bonds was about 0.7 to 0.8 per cent. Thus, it was possible that actual income would exceed the estimates, but the budgeted amount was what the Secretary-General had considered most reasonable. Moreover, a calculation made on 10 November 1954 had indicated that actual income for 1954 would amount to within ten or twenty thousand dollars of the estimate. Experience therefore showed that if actual income was to correspond with the estimates, the estimates must be cautious.

35. The figures relating to income from the sale of United Nations stamps had also been worked out as accurately as possible. The Advisory Committee had recommended a token increase of \$10,000 for sales of United Nations publications. The Secretary-General had no objection to that; he shared the Advisory Committee's hope and would do his best to increase the volume of income from that source.

36. With regard to the Byelorussian representative's remarks, negotiations were in progress on the amount of reimbursements by the specialized agencies. It was not a matter which the United Nations could decide without negotiation, and there was reason to hope that the amounts would be increased. That possibility had

been taken into account in arriving at the total of income under the heading. The approved estimate for 1954 had been \$374,000, whereas actual income would amount to about \$340,000. Thus the figure of \$382,000 for 1955 was reasonable.

37. The CHAIRMAN put to the vote the Czechoslovak proposal to increase the estimates of interest from investments by \$40,000.

The proposal was rejected by 34 votes to 5, with 1 abstention.

38. The CHAIRMAN put to the vote the Byelorussian SSR's proposal to increase the estimates under Reimbursement for staff and services furnished to specialized agencies and others by \$15,000.

The proposal was rejected by 32 votes to 6, with 2 abstentions.

39. The CHAIRMAN asked the Committee to vote on the Advisory Committee's recommendation to assess the estimates of miscellaneous income (A/2688) at \$6,783,100.

The recommendation was adopted on first reading by 35 votes to 5.

40. In reply to a question from Mr. CHECHYOTKIN (Union of Soviet Socialist Republics), Mr. ANDERSEN, (Secretariat) explained that the figure of \$6,783,100 did not include income from the Visitors' Service or any income which might be derived from the various proposals before the Committee, as was shown in document A/C.5/614, Annex B.

PERMANENT HEADQUARTERS AT GENEVA OF THE INTERNATIONAL TELECOMMUNICATION UNION AND THE WORLD METEOROLOGICAL ORGANIZATION (A/2812; A/C.5/604) (*continued*)

41. In reply to a question from Mr. CUTTS (Australia) Mr. ANDERSEN (Secretariat) explained that the International Telecommunication Union (ITU) and the World Meteorological Organization (WMO) took the view that the construction of their permanent headquarters would be financed by the United Nations. The building would then be let to the two agencies and would bring about \$50,000 a year to the United Nations. The Secretary-General thought that, if the United Nations decided to finance the construction, a credit would have to be opened in the United Nations budget for the purpose.

42. Mr. CUTTS (Australia) said that the Australian delegation was unable to accept the Advisory Committee's recommendation (A/2812). The expenditures of specialized agencies ought to appear in their own budgets, not in the United Nations budget, whether it was on capital or current account. The Australian delegation would be willing to accept a proposal to assist the specialized agencies concerned to finance the construction by means of an advance or a loan from the Working Capital Fund, but the main responsibility for the construction should devolve on them rather than on the United Nations. The construction of offices for the two agencies was no doubt warranted, but he could not support the proposal in its present form.

43. Mr. CLOUGH (United Kingdom) observed that, if the United Nations financed the construction of the ITU and WMO buildings, its assets would eventually be increased by the value of the buildings. It was unfor-

tunate that paragraph 9 of the Secretary-General's report (A/C.5/604) and paragraph 2 of the Advisory Committee's report (A/2812) had not dealt more fully with the implications of the assurance in principle which the General Assembly was being asked to give. It was essential for the General Assembly itself to be satisfied that the building plans would be such as they could accept. Subject to satisfaction on that point, the United Kingdom delegation was prepared to agree that the construction should be financed by the United Nations, provided that the money required was taken from the Working Capital Fund. It was not desirable to increase the contributions of Member States in order to add to the Organization's assets.

44. Mr. VAN ASCH VAN WIJCK (Netherlands) agreed that some points needed to be made clearer, but at first sight the suggestion that the United Nations should finance the construction of buildings for ITU and WMO seemed interesting.

45. Installation of the Secretariats of the two specialized agencies in new wings of the Palais des Nations should allow for rationalization of administrative services and better use of some of the conference rooms. It would be useful to know how much money could thus be saved.

46. The solution proposed by the Australian delegation, that ITU and WMO should finance the construction of new buildings themselves, would give rise to complications, in that buildings which did not belong to the United Nations would then be on United Nations territory.

47. On the other hand, there was the question whether the Canton of Geneva, which was prepared to give two buildings to the agencies, would also pay for their maintenance. If that were so, it might in the end be less expensive for ITU and WMO to be installed in buildings provided by the Canton of Geneva outside the boundaries of the Palais des Nations rather than in buildings belonging to the United Nations and situated on United Nations territory. Finally, if the buildings occupied by ITU and WMO were to belong neither to those agencies nor to the United Nations, and if one day it seemed desirable to alter them, the question of who would pay for such alterations would arise.

48. The problem was very complex and required close study. He was unable, therefore, to take a definite stand, but was prepared provisionally to approve the Secretary-General's recommendation, on the understanding that the question would remain under study and that the Secretary-General would submit a new report.

49. Mr. PELT (Director of the European office of the United Nations) thought that a brief summary of the history of the question would be useful to the Committee. Since 1950, the two specialized agencies in question had been negotiating with the Canton of Geneva and the Swiss Federal Government, as their resources did not enable them to finance the construction of the buildings they needed. The Canton of Geneva, which was anxious that the two agencies should remain in its territory, had made various proposals which had been rejected until, at the beginning of 1954, it had offered to construct at its own expense buildings which would be leased to the ITU and WMO at a rate of 3 per cent per year on the total invested capital. The Canton would pay for heavy maintenance expenses,

but other maintenance expenses and services would be borne by ITU and WMO.

50. The two specialized agencies had been very interested in the offer and the Secretary-General of ITU had said that he would be prepared to accept it, subject to the approval of his Administrative Council. The Executive Committee of WMO also favoured the cantonal authorities' proposal. Nevertheless, the Secretary-General of the United Nations had considered that that solution would make it more difficult to carry out the policy of joint services for the United Nations and the specialized agencies recommended by the Advisory Committee and by the General Assembly. He had therefore asked ITU and WMO to postpone their decision, in order to give time to seek a solution more in conformity with the General Assembly's wishes. The European office of the United Nations had then studied the question and had come to the conclusion that it would be better to erect the buildings on United Nations territory.

51. That solution would be less expensive, as it would be pointless to provide special conference rooms for ITU and WMO when they could use those in the Palais des Nations. It would also have the advantage of making it possible to expand the joint services of the United Nations and the two specialized agencies. Nevertheless, ITU and WMO wished to be assured that, if they were to refuse the offers of the Canton of Geneva, the United Nations would pay for the construction of the buildings on the same terms as the cantonal authorities. The Secretary-General had been unable to give that assurance without the consent of the General Assembly and had therefore submitted the matter to the Fifth Committee.

52. In reply to the United Kingdom representative, he stressed that all delegations would be quite free to accept or reject the solution when the question was discussed at the next session. Obviously, the Administrative Council of ITU and the Executive Board of WMO would also retain full freedom of action. The Secretary-General himself had stated that he would not ask the General Assembly to vote the necessary credits unless the question of financing and joint services had been satisfactorily solved.

53. With regard to the Netherlands representative's remark, he stressed that buildings erected on United Nations territory must belong to the United Nations. Otherwise, the position would be very complicated from the legal point of view because United Nations territory was extraterritorial. The solution of lending funds to ITU and WMO so that they could erect the buildings themselves was therefore not to be recommended. It must be borne in mind that, if the United Nations constructed the buildings and let them to the specialized

agencies, it would receive a rent of \$50,000 a year, which would go to the Canton of Geneva if the cantonal authorities' offer were accepted. The maintenance costs would obviously be borne by the United Nations, but they would be lower than if ITU and WMO were to occupy separate buildings outside the territory of the Palais des Nations. It was impossible to estimate now how much money could be saved but, if the General Assembly were to agree in principle, it would have a detailed plan of joint services before it at its next session.

54. Mr. CHECHYOTKIN (Union of Soviet Socialist Republics) considered that it was unnecessary to go to great expense or to make great alterations in the Palais des Nations in order to accommodate the small secretariats of two specialized agencies. The General Assembly should therefore advise ITU and WMO to consider whether they could not be accommodated in the available space in the Palais des Nations or in the buildings of other agencies with headquarters at Geneva.

55. Mr. M. I. BOTHA (Union of South Africa) agreed that it would be useful to develop services common to the United Nations and the specialized agencies. Nevertheless, the South African delegation could not take a position on the matter until it received its Government's instructions. It was unfortunate that a question on which the United Nations, ITU and WMO had been negotiating since May should have been submitted to the Committee at such a late date.

56. Mr. BIHIN (Belgium) drew attention to the opinion of the Director of the European Office that the Secretary-General's solution seemed to be the most economical and administratively the most rational. The Committee must bear that essential consideration in mind when taking its decision at the next session. As the Secretary-General had pointed out, it was understood that the General Assembly, in giving its agreement on principle now, would retain its freedom of action in the event that the plans and arrangements proposed by ITU and WMO failed to meet with its approval. He thought it advisable that the buildings for ITU and WMO should be owned by the United Nations, which could then dispose of them freely and, if necessary, put them to some other use. He agreed with the Advisory Committee (A/2812, paragraph 6) that the general question of the use of office space at the European Office might usefully be studied during 1955 by the Survey Group in the light of the final decision on the transfer to Geneva of the Division of Narcotic Drugs and the major part of the Transport and Communications Division. Finally, he would support the Secretary-General's proposal.

The meeting rose at 6 p.m.