



GENERAL ASSEMBLY

ORIGINAL: ENGLISH

Fourth session

Item 44 of the agenda

ESTABLISHMENT OF AN ADMINISTRATIVE TRIBUNAL

Report of the Secretary-General

ANNEX 5

Note: The following supplementary memorandum received from the Staff Committee should be attached to document A/986 as Annex 5.

1. With respect to paragraph 3 of the report of the Secretary-General on the establishment of an Administrative Tribunal (A/986) in which is quoted a resolution of the Staff Association, the Staff Committee respectfully draws attention to the fact that, on 2 September 1949, it wrote to the Assistant Secretary-General for Administrative and Financial Services as follows:

"The Staff Association at a meeting in March 1949, in the preamble to a resolution on the Administrative Tribunal, voiced the opinion 'that the present Appeals Board should now be replaced by an Administrative Tribunal'. However, it was clear at the meeting that the Staff Association had in mind that there should now be a tribunal whose decisions would be binding and it should have jurisdiction over the same matters in regard to which the Appeals Board may make recommendations, that is: including disciplinary matters.

"Moreover, at the annual meeting of 19 May 1949 a question was asked from the floor whether in the opinion of the Staff Committee the Appeals Board should be maintained when the Administrative Tribunal was established. The Staff Committee answering in the affirmative, not a single voice to the contrary was heard.

"In addition, the Staff Committee maintains its opinion as expressed in its first memorandum, that continuation of the Appeals Board procedure is needed in order (a) to preserve the conciliatory function of the Appeals Board; and (b) to ensure that less important cases can be readily disposed of, thus lessening the work of the Administrative Tribunal."

/2. With regard to

2. With regard to paragraph 11 and Annex 2 of document A/986 containing a draft resolution for the revision of provisional staff regulation 23, the Staff Committee is of the opinion that the text of regulation 23 should be maintained as it is and should be fully implemented. Any new regulation with respect to the Administrative Tribunal can easily be provided for in some additional regulation, and there is no need to cut down the safeguards provided for the staff by the present regulation 23.

3. In connexion with article 10, an error has crept into the wording set out in Annex 4 on page 27 of A/986. The proposal of the Staff Committee is that Article 10 should read as follows:

"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; but if such rescinding or specific performance is, in the opinion of the Secretary-General and the Tribunal, impossible or inadvisable, the Tribunal shall order the payment to the applicant of full compensation for the injury sustained. The applicant shall be entitled to claim compensation in lieu of rescinding of the contested decision or specific performance. The compensation awarded shall be fixed by the Tribunal and paid by the United Nations."
