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Chair: Mr. Bhattarai (Nepal)
Chair of the Advisory Committee on Administrative and Budgetary Questions: Mr. Ruiz Massieu

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The meeting was called to order at 10.10 a.m.

Agenda item 134: Proposed programme budget for the biennium 2016-2017 (continued)

Operational arrangements and conditions of service of the Advisory Committee on Administrative and Budgetary Questions (A/70/544)

1. **Mr. Ruiz Massieu** (Chair of the Advisory Committee on Administrative and Budgetary Questions), introducing his report on operational arrangements and conditions of service of the Advisory Committee (A/70/544, part one), said that the workload of the Advisory Committee had progressively increased since its establishment as a result of changes in the scope and volume of the work of the Organization. Consequently, the Secretary-General had pointed out the potential benefits of establishing the Advisory Committee as a full-time standing committee, and had proposed that the General Assembly should consider establishing the annual net compensation for members other than the Chair at a level equivalent to that of United Nations staff members at the D-2 level, step IV.

2. In its resolution 69/274 A, the General Assembly had recognized the increasing workload and complexity of issues considered by the Advisory Committee and had considered that its current operational arrangements should be improved. It had also acknowledged the need for the Advisory Committee to perform its functions in full independence and for it to provide the technical expertise required for the deliberations of the General Assembly. The Assembly had therefore requested the Advisory Committee to formulate recommendations for improving the current conditions of service of its members and to propose measures to increase the efficiency of its working practices, including through the establishment of a code of conduct.

3. The payment of travel and daily subsistence allowance to those members deemed to be in travel status, as if they were based only temporarily in New York, was not suited to current operational requirements, which required full-time presence in New York. In line with the conditions of service currently in place for the Chair of the Advisory Committee and the Chair and Vice-Chair of the International Civil Service Commission (ICSC), the remuneration of Advisory Committee members should

be governed by a scale separate and distinct from that governing the remuneration of United Nations staff members, while reflecting the principle of general equivalency with Secretariat remuneration levels. The General Assembly might wish to consider establishing the annual net remuneration of members of the Advisory Committee within a range below that of the salary of the Chair. It would also be beneficial for all members of the Advisory Committee, with the exception of its Chair, to be on an equal footing in terms of remuneration and legal status. They would be accorded the privileges, immunities and facilities accorded to diplomatic envoys under international law.

4. Concerning the Advisory Committee's working practices, although the proposals in the report envisaged the establishment of the Advisory Committee as a full-time standing body, it intended to limit its meeting servicing requirements to the current biennial allocation of 78 weeks. Efficiency measures had recently been introduced, including efforts to improve the timeliness of documentation. In addition, a draft code of conduct had been formulated to supplement the regulations applicable to and duties of non-Secretariat United Nations officials. The General Assembly might also wish to consider introducing stand-down provisions that would prescribe a minimum lapse of time between the end of a member's term on the Advisory Committee and candidacy for a vacant position or consultancy assignment with the United Nations Secretariat. Lastly, to ensure a smooth transition to the new operational arrangements, the introduction of a transitional regime was envisaged under which current members of the Advisory Committee would have the option of serving out their present terms of office under the existing conditions.

5. **Ms. Wainaina** (Assistant Secretary-General for Human Resources Management), introducing part two of the note by the Secretary-General on the operational arrangements and conditions of service of the Advisory Committee (A/70/544), said that the Secretary-General supported the proposal that the General Assembly should determine the remuneration of the members of the Advisory Committee as proposed by its Chair, taking into account the current programme of work of the Advisory Committee, the increased workload, and the level of expertise and experience required. The proposal could be considered against the backdrop of the arrangements for other United Nations officials other than Secretariat officials, such as inspectors of

the Joint Inspection Unit and the full-time judges of the United Nations Dispute Tribunal, whose salaries and other conditions of service were equivalent to those of United Nations staff members at the D-2 level, step IV.

6. The Secretary-General supported provision of the allowances and benefits for full-time members of the Advisory Committee proposed in annex I to the note, as well as the recommendation that the annual net remuneration of members of the Advisory Committee should be subject to the same cost-of-living adjustments as those applied to the compensation of the Chair, in accordance with section III, paragraph 7, of General Assembly resolution 65/268, and that the other elements of their conditions of service should be reviewed by the Assembly every four years at the same time as the other conditions of service of the Chair of the Advisory Committee.

7. The Secretary-General agreed on the need to establish a transitional mechanism for the current members of the Advisory Committee and with the proposal to offer members the option of joining the United Nations Headquarters medical insurance scheme, upon payment of the full cost of the insurance premium.

8. With regard to the legal status of members of the Advisory Committee, the Assembly might wish to consider that, for the purposes of the Convention on the Privileges and Immunities of the United Nations, members of the Advisory Committee should have the status of officials other than Secretariat officials performing functions for the Organization on a substantially full-time basis and should thereby be granted privileges and immunities under articles V and VII of the Convention.

9. **Mr. Davidson** (South Africa), speaking on behalf of the Group of 77 and China, said that the Group attached great importance to the work of the Advisory Committee and welcomed the improvement in its working methods, particularly the timely issuance of documentation.

10. The Group noted that the volume and complexity of the Advisory Committee's work had increased significantly in recent years, with it now meeting for up to 78 weeks in the biennium, equivalent to almost 20 months. Those operational requirements demanded the full-time presence of Advisory Committee members in New York, yet the conditions of service of those members who were in travel status equated them

to members of United Nations bodies that had annual meetings for periods of only two to four weeks. The operational independence of the Advisory Committee would be strengthened by the establishment of identical terms and conditions for all members in accordance with the principle of equal pay for equal work. The current members of the Advisory Committee should have the option of serving the remainder of their terms under the conditions applicable to them, so as to provide the necessary flexibility during the transition to any new conditions of service.

11. The issue of the operational arrangements of the Advisory Committee had been under consideration by the Fifth Committee since the sixty-seventh session, and it was high time that a decision was taken. He urged delegations to reach agreement at the main part of the session.

12. **Mr. Presutti** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Ukraine, said that the Advisory Committee played a crucial role in advising the Fifth Committee and in performing other important functions for the United Nations and its specialized agencies. It was essential for the Advisory Committee to be equipped with the necessary tools to perform its tasks effectively and to respond to the changing needs of the General Assembly in full independence.

13. By its resolution 69/274 A, the General Assembly had mandated the Advisory Committee to carry out a comprehensive assessment of its operational arrangements and had requested it to formulate recommendations to improve the conditions of service of its members and propose measures to increase the efficiency of its working practices, in particular by reviewing its internal procedures, including its organization of work, and by establishing a code of conduct for its members. Regrettably, the report of the Advisory Committee did not fully respond to that mandate. It was disappointing that, instead of presenting a truly comprehensive assessment of the Advisory Committee's operational arrangements, the report focused primarily on the conditions of service and status of its members. It neglected what should have constituted the primary objective of the exercise: review of the working methods and organization of work of the Advisory Committee, which lay at the core

of its operational arrangements. His delegation had expected an analysis of options to integrate innovative practices into the working methods of the Advisory Committee, such as parallel meetings, quality control mechanisms for reports, measures to fully exploit modern technology, and ways to make the scheduling and planning of agenda items more effective, but its expectations had simply not been met.

14. A strong and comprehensive code of conduct was vital to the full independence and impartiality of the Advisory Committee. His delegation noted the inclusion of elements of a code of conduct in an annex to the report but was not satisfied with the scope of the code presented, particularly the absence of requirements on cooling-off or stand-down periods and the lack of provisions on term limits to limit the number of terms of office of members. Furthermore, no mention had been made of measures to enhance the technical professionalism of members. Lastly, it was regrettable that no consideration had been given to the importance of gender balance within the Advisory Committee given that as of 1 January 2016 only one of its 16 members would be female.

15. Despite the Advisory Committee's increased workload, it was not necessary to change the status of the members, and the current workload in no way justified the creation of full-time positions. On the contrary, the implementation of the International Public Sector Accounting Standards (IPSAS) had significantly expedited the processing of financial statements and would contribute even more in future to better management of the growing number of reports to be issued by the Advisory Committee, while other reform initiatives such as Umoja would also have a positive impact on its workload. The Advisory Committee should exploit such innovations and reforms in the interest of efficiency and productivity. Granting the status of officials other than Secretariat officials to its members was unwarranted: placing them on the payroll of the United Nations, which they were tasked with advising as independent experts, would compromise their independence and their role. The member States of the European Union were deeply concerned at the direction taken by the report and called for caution regarding any proposals that would jeopardize the full independence of the Advisory Committee and its members.

16. **Mr. Dettling** (Switzerland), speaking also on behalf of Liechtenstein, said that the Advisory

Committee made an invaluable contribution to informed decision-making by Member States on a broad and increasingly complex range of issues. Accordingly, he welcomed the efforts to make the Advisory Committee more efficient and to strengthen its independence.

17. All members of the Advisory Committee should enjoy the same conditions of service: steps should be taken to address discrepancies in remuneration, health insurance coverage and privileges and immunities given that all members were held to the same high standards. The proposed code of conduct addressed critical areas, including issues that had arisen as a result of the individual conduct of some members. It also appeared to be broadly in line with comparable documents in other organizations. However, he looked forward to discussing possible additions to the code.

18. In addition to a code of conduct, the Fifth Committee could discuss other reforms to strengthen the Advisory Committee's role as an independent expert body. Under the rules of procedure of the Assembly, at least three members of the Advisory Committee should be financial experts. Without prejudice to the principle of geographical representation, the Assembly could define the criteria for selecting those financial experts and consider whether a minimum of three was sufficient. Moreover, in order to prevent conflict of interest and strengthen the Advisory Committee's independence, restrictions could be introduced on recruitment to the Secretariat within a specified period following the expiration of the term of office of a member.

19. **Ms. Norman Chalet** (United States of America) said that the Advisory Committee played a crucial role in the oversight of United Nations programmes and resources: it was important to ensure that it fulfilled its full potential as an independent expert body.

20. The operational arrangements of the Advisory Committee and conditions of service of members had been before the Fifth Committee for several years but no resolution had been reached, as the focus had been on conditions of service, with insufficient emphasis on working methods. In March 2015, the Assembly had addressed a compelling need related to working conditions by granting access to United Nations health-care benefits. In order to gain a comprehensive picture of the reforms needed, the Advisory Committee had been requested to prepare a report outlining how it

should operate. However, the report now before the Fifth Committee provided only a selective picture of what was needed to reform the Advisory Committee and did not suggest a comprehensive way forward regarding working methods, including establishment of a code of conduct and cooling-off period. Comprehensive — not selective — reform was needed.

21. **Mr. Podlesnykh** (Russian Federation) reiterated his delegation's support for the work of the Advisory Committee in ensuring the rational use of the financial and human resources of the United Nations and its funds, programmes and specialized agencies, in improving the effectiveness, transparency and accountability of the work of the Secretariat, and in ensuring strict compliance with established rules and procedures. The Advisory Committee's workload, and the financial implications of the matters dealt with in its reports, had increased significantly in recent years; his delegation supported the proposal to transform it into a full-time standing body and improve the conditions of service of its members, a proposal supported by the Secretary-General. The budgetary implications of the changes should be included in the proposed programme budget for the biennium 2016-2017. A decision should be taken at the main part of the session.

22. The draft code of conduct setting out the requirements for membership of the Advisory Committee provided a basis for further discussion.

23. **Mr. Ruiz Massieu** (Chair of the Advisory Committee on Administrative and Budgetary Questions) said that the Advisory Committee could put forward recommendations but it was for the Assembly to make decisions. The proposed code would set out the standards of conduct expected of members of the Advisory Committee during their terms of office. The proposal to establish a stand-down period would be a statutory requirement rather than an element relating to conduct, and was designed to strengthen the independence of members of the Advisory Committee. Other elements, such as limits on the terms of Advisory Committee members, their qualifications, and the composition of the membership, were important, but were not within the purview of the Advisory Committee and would be determined by the Assembly.

24. The Advisory Committee was making improvements in its working methods and would keep the Fifth Committee informed of progress made.

However, what Member States most wanted was timely delivery of quality reports — improving the working methods of the Advisory Committee was largely an internal matter. The Advisory Committee nonetheless welcomed suggestions on how to improve its working methods.

25. The proposal that members of the Advisory Committee should be treated as officials other than Secretariat officials would not compromise their independence. The Chair of the Advisory Committee had a status distinct from that of United Nations Secretariat officials but was on the payroll of the Organization. Similarly, the Chair and Vice-Chair of ICSC were also independent of the Secretariat even though their salaries were paid by the Organization.

Request for a subvention to the Extraordinary Chambers in the Courts of Cambodia
(A/70/7/Add.20 and A/70/403)

26. **Ms. Bartsiotas** (Controller), introducing the report of the Secretary-General on the request for a subvention to the Extraordinary Chambers in the Courts of Cambodia (A/70/403), said that the report outlined the substantive progress achieved by the Extraordinary Chambers, presented information on their continuing financial challenges, and provided estimates of resource requirements for the national and international components for the biennium 2016-2017.

27. Over the previous year the Chambers had reached peak workload, with full sets of appeal, trial and judicial investigation proceedings advancing simultaneously. They had made steady progress in the four cases currently before them and had prepared a completion plan highlighting remaining procedural milestones and projecting the timelines needed to complete the current caseload. The plan was updated on a quarterly basis.

28. By its resolution 69/274 A, the General Assembly had authorized the Secretary-General, as an exceptional measure, to enter into commitments in an amount not to exceed \$12.1 million to supplement the voluntary financial resources of the international component of the Extraordinary Chambers for the period from 1 January to 31 December 2015. The full amount of \$12.1 million had now been drawn upon, in addition to \$10.3 million in voluntary contributions in 2015. The commitment authority had been instrumental in enabling the Secretariat to extend contracts for

international staff until 31 December 2015 and ensure timely delivery of the programme of work of the Chambers. Expenditure against the commitment authority might be lower than \$12.1 million if outstanding pledges for 2015 materialized before the end of the year.

29. The Secretariat continued to work closely with the Principal Donors Group in New York and the Friends of the Extraordinary Chambers to raise voluntary contributions. A fundraising strategy had been developed to seek support from key Governments for both the international and national components. In addition, the Royal Government of Cambodia had formally conveyed to the Secretary-General its commitment to cover the cost of the salaries of national staff for a period of six months, plus operational costs, amounting to \$4.15 million for the national component in 2016.

30. The level of voluntary contributions pledged was not sufficient to meet the 2016 requirements of the Chambers and intensive outreach and fundraising efforts would therefore continue. The Secretary-General was seeking an appropriation for a subvention in the amount of \$25.2 million for 2016 to cover the extension of contracts of international staff for the year 2016 and to facilitate the achievement of key milestones by the Chambers.

31. **Mr. Ruiz Massieu** (Chair of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/70/7/Add.20), said that the report of the Secretary-General contained an estimated budget for 2016-2017 and a request for a subvention for the international component of the Extraordinary Chambers in the amount of \$25.15 million for 2016, representing the full 2016 budget minus a voluntary pledge of \$546,400. The report also contained an update on the judicial proceedings. The Advisory Committee noted that judicial activity was foreseen for several more years beyond the current financial period.

32. With regard to the financial position of the Chambers in 2015, the Advisory Committee noted that by the end of October 2015 the commitment of \$12.1 million authorized by the General Assembly to supplement the voluntary financial resources of the international component had been fully drawn upon.

33. The Advisory Committee recalled that, in accordance with General Assembly resolution 57/228

A, the expenses of the international component of the Extraordinary Chambers were to be borne by voluntary contributions. A decision to appropriate almost the full amount of the budget of the international component for 2016 would undermine the voluntary nature of the current funding arrangements and related fundraising. However, given the funding challenges faced by the Extraordinary Chambers and the need to ensure expeditious conclusion of the remaining cases, the Advisory Committee considered that, for 2016, the United Nations should maintain the level of its support at the level approved by the General Assembly in 2015.

34. **Mr. Davidson** (South Africa), speaking on behalf of the Group of 77 and China, said that the Group attached great importance to the efficient and effective operation of the Extraordinary Chambers in the Courts of Cambodia in discharging their mandate, and to consideration of the funding needed to facilitate progress in their workload.

35. The Group recalled that, by its resolution 69/274 A, the Assembly had authorized the Secretary-General, as an exceptional measure, to enter into commitments in an amount not to exceed \$12.1 million to supplement the voluntary financial resources of the international component for 2015, and had requested information on the use of the commitment authority in the context of the second performance report. The Group looked forward to receiving updates.

36. The Group noted the commendable progress made by the Chambers, including the completion plan and road map, the use of the approved commitment authority, and the proposed budget for 2016-2017. It commended the Chambers and the Royal Government of Cambodia on their continued commitment to implementing the Chambers' mandate despite financial challenges, and welcomed the efforts of the Secretary-General and the Special Expert to improve the financial situation of the Chambers, including by widening the donor base. The Group encouraged further efforts to improve the financial sustainability of the Chambers.

37. The Group welcomed the joint statement on the Extraordinary Chambers of 17 November 2015 issued by the Deputy Prime Minister of Cambodia and the Assistant Secretary-General for Legal Affairs. The Group also welcomed the voluntary contributions for the national component, while noting the Secretary-General's request for the Assembly to approve a

subvention of up to \$25.15 million for the period 1 January to 31 December 2016 and to consider his report on the proposed subvention for 2017, amounting to \$20.08 million, at the main part of the seventy-first session. The Group supported approval of the Secretary-General's resource allocation proposal to enable the Chambers to fulfil their mandate in an efficient and effective manner.

38. **Mr. Kishimori** (Japan) said that the Extraordinary Chambers were of great importance to the Cambodian people as the proceedings allowed them to come to terms with their country's tragic history, brought the perpetrators to justice and enhanced the rule of law. Japan had long actively supported the peace process in Cambodia and welcomed the progress achieved, particularly in the judicial proceedings relating to case 002, which showed progress was being made in serving justice in Cambodia.

39. The Chambers faced serious financial difficulties that must be addressed so that they could continue their judicial activities. His delegation was concerned at the increasing reliance on subventions from the regular budget of the United Nations, which could undermine the voluntary nature of the current funding arrangements and related fundraising. He welcomed the recent commitment by the Royal Government of Cambodia concerning the coverage of staff costs in the national component. His delegation encouraged all Member States to provide voluntary contributions: the Secretariat should continue its efforts to obtain further contributions.

40. **Mr. Tuy** (Cambodia) said that his Government was grateful for the efforts of the Secretary-General in securing funding for the international component of the Extraordinary Chambers so that the proceedings under way could continue. It also appreciated the support of the Group of 77 and China for the request for a subvention for both the international and national components of the Chambers.

41. Efforts were being made to continue the proceedings in the Courts: a joint statement on the Chambers had been issued in Phnom Penh on 17 November 2015 to reflect the outcome of the meeting held between the Deputy Prime Minister and the Assistant Secretary-General for Legal Affairs. On the basis of that joint statement, the Government supported the Secretary-General's request to the General Assembly to provide a subvention for the

international component for 2016. The Government had also renewed its commitment to cover the costs of national staff for a period of six months, plus operational costs, totalling \$4.15 million. The Government looked forward to receiving support from the United Nations in its efforts to ensure full funding of the Chambers.

42. His delegation was grateful for the financial contributions of donor countries and hoped that they would continue to provide financial support to the national component to avoid funding shortages.

The meeting rose at 11.05 a.m.