



UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
GENERAL

A/C.5/36/23
20 October 1981

ORIGINAL: ENGLISH

Thirty-sixth session
FIFTH COMMITTEE
Agenda item 103

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

Note by the Secretary-General

1. By its decision 34/438 of 17 December 1979, the General Assembly requested the Secretary-General and his colleagues in the Administrative Committee on Co-ordination to pursue a progressive harmonization and further development of the statutes, rules and practices of the Administrative Tribunal of the International Labour Organisation and of the United Nations Administrative Tribunal, with a view to strengthening the common system and with the aim of establishing a single tribunal, and requested the Secretary-General to report on the subject to the General Assembly at its thirty-sixth session.

2. Following the decision of the General Assembly, the International Labour Office, after informing its Governing Body, 1/ sought the views of the other intergovernmental organizations that had submitted to the jurisdiction of the ILO Administrative Tribunal, with respect to the main divergences between the statutes of the two Tribunals and the broad lines along which harmonization might be sought. A survey of the views of the responding organizations on the issues on which their opinion was sought and of their additional suggestions was submitted to the Programme, Financial and Administrative Committee of the Governing Body at its February-March 1981 session 2/ and was also communicated to the United Nations. In addition, the Governing Body heard the views of the ILO Staff Union, with which the Administration held further consultations, while the ILO Administrative Tribunal - which had been formally seized of the question of harmonization of its rules of court, of which it is the master - also expressed its opinion on the issues raised in connexion with the above-mentioned consultations.

1/ ILO Document GB.213/PFA/9/14.

2/ ILO Document GB.215/PFA/15/17.

3. Meanwhile, the Office of Legal Affairs of the United Nations had also undertaken a study of the questions raised by the General Assembly's decision, but from the point of view of the United Nations and its Administrative Tribunal. After the first ILO paper had been issued to its Governing Body, consultations were conducted between the legal offices of the United Nations and ILO. After the second ILO paper had been issued, it was also taken into account in preparing a set of proposals for submission by the Secretary-General to the various interested parties, which included the staff of the Organization itself (to be consulted through the Staff-Management Co-ordination Committee); the two specialized agencies that have submitted to the jurisdiction of the United Nations Administrative Tribunal for all staff disputes; 3/ 4/ the 11 other intergovernmental organizations that have submitted to its jurisdiction for the purpose of disputes relating to decisions of the United Nations Joint Staff Pension Board; 4/ the Pension Board itself; the International Labour Office; and the judges of the two Tribunals.

4. As the above-mentioned consultations have not yet been completed, the Secretary-General does not consider it opportune to submit a substantive report on the subject to the General Assembly. An additional consideration is the fact that the International Court of Justice has now, for the first time, received a request for an advisory opinion in respect of a judgement of the United Nations Administrative Tribunal, 5/ formulated by the Committee on Applications for Review of Administrative Tribunal Judgements at the request of a Member State; as this method of reviewing administrative tribunal judgements is one of the important issues to be considered in the harmonization of the statutes of the two common system Tribunals, and as the Court, in a previous advisory opinion, had specifically reserved its position in respect of requests for review originated by a Member State, 6/ it would seem inappropriate to advance any proposals in respect of this procedure at this time.

5. The Secretary-General therefore suggests that this question be taken up again, within the context of the corresponding agenda item, at a future session of the General Assembly.

3/ The International Civil Aviation Organization and the Inter-Governmental Maritime Consultative Organization.

4/ These organizations, in turn, may consider that they must consult their respective staff organizations.

5/ A/AC.86/25, para. 15.

6/ Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1973, p. 166, at p. 178, para. 31.