



# General Assembly

Fifty-seventh session

Official Records

Distr.: General  
12 November 2003  
English  
Original: Spanish

---

## Fifth Committee

### Summary record of the 42nd meeting

Held at Headquarters, New York, on Thursday, 6 March 2003, at 10 a.m.

*Chairman:* Mr. Sharma . . . . . (Nepal)  
*Chairman of the Advisory Committee on Administrative and Budgetary Questions:* Mr. Mselle

## Contents

Agenda item 123: Administration of justice at the United Nations (*continued*)

---

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

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

**Agenda item 123: Administration of justice at the United Nations** (*continued*) (A/56/800; A/57/276, A/57/441 and Add.1 and A/57/736; A/C.5/57/25)

1. **Ms. Ebbesen** (United States of America) said that the answer to the delays in the administration of justice and the lack of policy concordance between the two main United Nations administrative tribunals, the International Labour Organization Administrative Tribunal (ILOAT) and the United Nations Administrative Tribunal (UNAT) lay in making the current system more effective and responsive rather than adding another layer of review which would only slow the process and create other problems. In that connection, she supported most of the conclusions and recommendations in the reports of the Secretary-General (A/56/800), the Advisory Committee on Administrative and Budgetary Questions (A/57/736) and the Joint Inspection Unit (A/57/441 and Add.1) aimed at improving the current system.

2. With regard to the Joint Appeals Board, she was pleased that the Secretary-General had requested the Office of Internal Oversight Services to conduct a management review of the entire appeals process to address the serious delays in the system, and encouraged the Office to take up some of the issues highlighted by the Advisory Committee in paragraph 7 of its report (A/57/736), including whether the provision of a full-time chairperson would contribute to expediting the handling of cases and the extent to which limitations could be placed on the frequency allowed to the parties to submit written pleadings. She also strongly supported the efforts made to streamline and strengthen the system by providing legal training for members of the Joint Appeals Board and by establishing an independent ombudsman.

3. She agreed with the Joint Inspection Unit on the need to develop effective internal mediation mechanisms in order to reduce the number of cases that had to be referred to ILOAT and UNAT. Internal mediation would allow the two Tribunals to focus on the most difficult cases, would reduce the costs of litigation and would help to prevent disputes from rising to a level where they might damage relations between staff and management. She disagreed, however, with some of the recommendations of the Joint Inspection Unit. First, plans for an imminent

merger of the two Tribunals were premature, given that the issue was still under consideration by the United Nations. As for the proposal regarding the creation of an ad hoc panel to review the judgements of ILOAT and UNAT, that question had already been considered in 1998 and 1999 by the legal advisers in the United Nations system, who had expressed the view that it was undesirable. Lastly, if ILOAT and UNAT acted as mediators between the parties, a conflict of interest could arise if the mediation was unsuccessful and the dispute later had to come before them as a complaint. Moreover, having ILOAT and UNAT judges serve as mediators could be very costly and less costly mediation mechanisms already existed in the United Nations system. Furthermore, once a case had reached a Tribunal, the most effective way of dealing with the dispute would be for that Tribunal to issue a ruling.

4. The United States supported the conclusion reached by the Advisory Committee, the Secretary-General and the Staff-Management Coordination Committee that it was important to maintain the positive elements of peer review in the Joint Appeals Board, and saw no advantage in strengthening the advisory function of the Board with regard to the suspension of action on a contested administrative decision. Article 97 of the Charter of the United Nations established the Secretary-General as the chief administrative officer of the Organization and, as such, he could not be bound by the decisions of staff members under his authority. She therefore disagreed with the recommendation of the Joint Inspection Unit that the practice should be adopted of automatically accepting unanimous recommendations of the Joint Appeals Board or any other internal advisory boards, especially when a major question of law or principle was involved.

5. As the Joint Inspection Unit pointed out, there was a clear disparity between the working procedures, statutes and jurisdiction of the two Tribunals, but it was unclear whether the gap needed to be closed and, if so, how it could be done. It was a very complicated issue that would have to be decided in the coming months or years, especially considering that ILOAT was currently undergoing reform of its own procedures and statutes. In the short term, her delegation agreed with the Advisory Committee's recommendation that UNAT should be strengthened through an amendment to its statute requiring that candidates for the Tribunal should

possess judicial experience in the field of administrative law.

6. Finally, with regard to the report of the Secretary-General on the monitoring capacity of the Office of Human Resources Management (A/57/276), she said that a fair, transparent and closely monitored human resources system was important in order to advance the administration of justice in the Secretariat because it would help to reduce the number of claims brought by the staff. However, she was concerned about the multiplicity of monitoring activities undertaken by the Office of Human Resources Management and other departments, units and field offices. The Secretary-General should establish a self-monitoring mechanism that was integrated into existing administrative and management structures so as to develop and implement the monitoring capacity of the Organization as a component of his management improvement initiatives.

7. **The Chairman** said that the Committee had concluded its general debate on agenda item 123.

*The meeting rose at 10.20 p.m.*