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Summary record of the 39th meeting

Held at Headquarters, New York, on Friday, 2 April 2004, at 10 a.m.

Chairman: Mr. Bouheddou (Vice-Chairman) (Algeria)
*Chairman of the Advisory Committee on Administrative
and Budgetary Questions:* Mr. Kuznetsov

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In the absence of Mr. Kmoníček (Czech Republic), Mr. Bouheddou (Algeria), Vice-Chairman, took the Chair.

The meeting was called to order at 10.20 a.m.

Agenda item 120: Programme budget for the biennium 2002-2003 (continued) (A/C.5/58/L.58)

Report of the Joint Inspection Unit on support costs related to extrabudgetary activities in organizations of the United Nations system (A/C.5/58/L.58)

Draft resolution A/C.5/58/L.58

1. *Draft resolution A/C.5/58/L.58 was adopted.*

Agenda item 121: Programme budget for the biennium 2004-2005 (continued) (A/C.5/58/L.61 and A/C.5/58/L.65)

Special Court for Sierra Leone (A/C.5/58/L.65)

Draft resolution A/C.5/58/L.65

2. *Draft resolution A/C.5/58/L.65 was adopted.*

3. **Ms. Nakian** (United States of America) said that her country was a leading proponent of the Special Court for Sierra Leone and that it was imperative to ensure that the Court had sufficient funding to continue its work. The United States delegation was therefore pleased that the Secretary-General had been authorized to enter into commitments in an amount not to exceed \$16.7 million to supplement the financial resources of the Court for the period from 1 July to 31 December 2004. She looked forward to the supplemental information to be communicated by the Court to the Advisory Committee on Administrative and Budgetary Questions and to the Fifth Committee, which would allow them to consider how to fund the balance of the Court's expenses for 2005, taking into account the recommendations of the Secretary-General. She reiterated her delegation's appeal to Member States to continue to make voluntary contributions to the Court and to honour existing pledges.

4. **Mr. Kozaki** (Japan) said that the granting of a subvention to the Special Court for Sierra Leone was an exceptional measure that should not set a precedent. The Japanese delegation looked forward to the report on the funding of the Special Court, which the

Secretary-General would submit to the General Assembly at its fifty-ninth session.

Capital master plan (A/C.5/58/L.61)

Draft decision A/C.5/58/L.61

5. *Draft decision A/C.5/58/L.61 was adopted.*

Agenda item 127: Human resources management (continued) (A/C.5/58/L.64)

Draft resolution A/C.5/58/L.64

6. **Mr. Eljy** (Syrian Arab Republic) said that draft resolution A/C.5/58/L.64 did not reflect certain questions that had been raised during the informal consultations and in the formal meetings, in particular the need to respect the principle of multilingualism and, to that end, increase the level of General Service staffing. The web pages of the Organization should be available in all official languages, particularly Arabic, but the Secretariat's resources were insufficient to ensure such availability. His delegation recalled that the issue had been raised on numerous occasions in reports of the Secretary-General and in resolutions of the General Assembly, including the resolution on the programme budget for the biennium 2004-2005, and hoped that the Committee would give the issue the attention it deserved during the next part of the Assembly's resumed session.

7. In that regard, his delegation emphasized that the Bureau of the Committee had acted irresponsibly in failing to schedule an additional meeting, as a number of delegations had requested. The failure of the Bureau to function in a transparent manner resulted in a waste of resources. The Bureau was not a General Assembly in miniature; its purpose was to facilitate the work of the Committee and not to become involved in the debate on substantive issues. Nevertheless, taking a constructive attitude, the Syrian Arab Republic would not oppose the adoption of the draft resolution by consensus.

8. **Ms. Stanley** (Ireland) drew attention to an error of translation in paragraph 3 of the French text of the draft resolution, where the word "*dispositions*" should be replaced by the word "*termes*".

9. *Draft decision A/C.5/58/L.64 was adopted.*

10. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, the acceding countries Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the stabilization and association process countries Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Serbia and Montenegro, the associated countries Bulgaria and Romania, and, in addition, Iceland, Liechtenstein and Norway, welcomed the efforts of all Member States to reach a compromise on an issue that had been the subject of long and delicate negotiations. The resolution undermined neither the prerogatives of the Secretary-General as the Chief Administrative Officer of the Organization nor the long-established principle that matters of personal status should be determined by reference to the law of nationality of the staff member concerned.

11. **Mr. Laurin** (Canada), speaking also on behalf of Australia and New Zealand, said that the Secretary-General should be able to decide on staff-management questions without prompting unwarranted interventions by Member States. He welcomed the concern for transparency manifested by the Secretariat in issuing bulletin ST/SGB/2004/4 as well as the Secretary-General's decision to continue to interpret the provisions of the Staff Regulations and Rules governing the payment of entitlements by reference to the law of nationality of the staff member concerned, as that principle ensured respect for the social, religious and cultural diversity of Member States and their nationals. There should be no ambiguity on that subject in the revised version of the bulletin to be issued by the Secretary-General.

12. **Ms. Santos-Neves** (Brazil), speaking also on behalf of Argentina, Bolivia, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay and Venezuela, said that the principle of referring to the law of nationality of the staff member to determine payment of entitlements is consistent with an Organization that defended respect for social, religious and cultural diversity. The delegations on whose behalf she spoke were concerned to preserve the Committee's working methods and had therefore decided to join the consensus reflected in the draft resolution, on the understanding that it called into question neither the prerogatives of the Secretary-General in his capacity as Chief Administrative Officer nor the principles that the personal status of staff members should be determined

by reference to the law of nationality of the staff member concerned; the social, religious and cultural diversity of the Organization and its staff should be respected; and the Organization should maintain an appropriate neutrality with respect to the laws and social customs of Member States.

13. **Ms. Chebomui** (Kenya) said that in her country the only legal unions were those between a man and a woman, as provided for by the Constitution and the family laws, which expressly laid down the following principles: the family was the natural foundation of society and the social order, and every adult was entitled to start a family by marrying a person of the opposite sex, with the free consent of both parties. Many social problems, such as poverty, crime, illiteracy and disease, were exacerbated by the erosion of family structures around the world. By further exacerbating that phenomenon, same-sex marriages could only frustrate the achievement of the purposes set forth in Article 1, paragraph 3, of the Charter of the United Nations, which were to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character. It was well known that problems relating to the breakdown of family structures led to political instability and conflict, thereby contributing to increases in the budgets of peacekeeping operations.

14. It had been clearly demonstrated that countries that had legalized marriages between same-sex partners were also those in which, because of the introduction of family-planning policies, the overall population was in decline even as the proportion of elderly people continued to rise. That was a matter of particular concern, since more and more young people were attracted to that type of marriage. Moreover, it was known that 95 per cent of people who lived with a same-sex partner did not want to have children. One might well wonder whether mankind could continue to exist without children, or whether advocates of same-sex marriages did not favour the introduction of human cloning. The countries concerned should reconsider their policies. Her delegation had not opposed the adoption of the draft resolution, but had reservations concerning paragraph 1, which the Secretariat should interpret in accordance with the definition of the institution of the family provided in the Staff Regulations and Rules.

15. **Ms. Nakian** (United States of America) said that her delegation had been pleased to learn that the

Secretary-General would review the content of bulletin ST/SGB/2004/4. Because Member States had not been more closely consulted, its provisions might well lead to disagreements. Consideration should therefore be given to the views and concerns expressed by Member States in the Fifth Committee and the General Assembly.

16. **Ms. M'Rabet** (Tunisia) said that her delegation had supported the text of the draft resolution as drafted in English, but that the expression *situation de famille* ("family status") in the French text should be replaced by *statut personnel* ("personal status"), which seemed more faithful to the original.

17. **The Chairman** said that the French version of the draft resolution would be corrected to take into account the views that had been expressed.

18. **Mr. Chaudhry** (Pakistan) said that in his country marriage — understood as a union between a man and a woman — and the family were sacred institutions. His delegation had joined the consensus on draft resolution A/C.5/58/L.64 on the understanding that, when it was reissued, the text of the Secretary-General's bulletin would not include terms which might prove controversial and on which all delegations could not agree; that the definition of "personal status" for the purposes of entitlements would not serve as a pretext for influencing the intergovernmental debate on the concepts of family and marriage; and that the revised text would be issued as soon as possible and not kept indefinitely under consideration.

19. **Mr. Al-Bader** (Qatar) said that his delegation endorsed the statement of the representative of the Syrian Arab Republic, particularly regarding the posting of Arabic-language pages on the United Nations website, and that adequate resources should be allocated for that task.

20. **Mr. Davis** (Bahamas) said that his delegation wished to align itself with the position of Brazil. It had joined the consensus on the draft resolution, even though it had initially considered it unnecessary, judging that the Secretary-General had been fully within his rights and that there had been no discernible budget implications. The adoption of the resolution by the General Assembly did not mean that the Secretary-General could abandon the long-established principle that matters of personal status were determined by reference to the law of nationality of the staff member

concerned, which was the only principle that could guarantee the equitable treatment of all staff members.

21. **Mr. Tal** (Jordan) said that the draft resolution adopted by the Committee was not satisfactory for any State or group of States. The Committee lacked discipline and transparency in its work and should set an example for reform, increasing its effectiveness by adopting draft resolutions that could be implemented and which were not open to differing interpretations.

22. **Mr. Ng'ongolo** (United Republic of Tanzania) said that his delegation had joined the consensus on the draft resolution on the understanding that the revised version of the Secretary-General's bulletin should not enter into force until it had been reviewed by the General Assembly, if it were determined that the bulletin amounted to an amendment to the Staff Regulations and Rules.

23. **Mr. Dhakal** (Nepal) said that, in the spirit of compromise, his delegation had joined the consensus, but on the understanding that the Secretary-General would take into account the laws in force in Member States and the views they expressed.

24. **Ms. Udo** (Nigeria), noting that the institution of the family was very important in her country, said that her delegation had joined the consensus on the draft resolution on the understanding that the Secretary-General, as Chief Administrative Officer, would continue to execute his functions in the knowledge that it was the role of the General Assembly to amend or add to the Staff Regulations and Rules. Her delegation had taken its decision only because paragraphs 2 and 3 of the draft resolution clearly provided that the content of the bulletin would be reviewed in the light of the views expressed by Member States and that, if it contained provisions that amounted to an amendment of the Staff Regulations and Rules, the General Assembly would rule on the matter. All future decisions involving the use of terms that were not unanimously approved should be submitted to the General Assembly, and the review of the bulletin and issuance of a revised version should be carefully done and as rapidly as possible.

25. **Ms. McCreery** (Assistant Secretary-General for Human Resources Management) said that, in accordance with the provisions of paragraphs 1 and 2 of the draft resolution, the Secretariat would continue to determine the personal status of staff members with reference to the law of their country of nationality and

that it would carefully review the bulletin and reissue it shortly.

26. Requests for entitlements submitted by staff members based on their personal status would be subject to verification by the permanent mission of the State of nationality of the staff member concerned. The Secretariat would process such requests after the missions had confirmed the validity of their status and entitlement under the law of nationality.

27. **Mr. Pulido León** (Venezuela) maintained that the Secretary-General's bulletin, when reissued, should not be taken up again by the Fifth Committee, since issues relating to family and marriage were not within its competence.

28. **Mr. Elnaggar** (Egypt) recalled that the General Assembly was a forum in which all opinions could be expressed and that its role was to ensure that all views were taken into account without any one being imposed on the others. His delegation would follow closely the decisions that would be taken to ensure that its own views had been duly taken into account.

29. **Mr. Eljy** (Syrian Arab Republic) said that he intended to submit to the Secretariat his comments on the Arabic text of the draft resolution. It was also his understanding that the bulletin would not be reissued without first being approved by the General Assembly and that it would be worded to reflect the views of all Member States.

Agenda item 129: Joint Inspection Unit (*continued*)

Reports of the Joint Inspection Unit (A/C.5/58/L.62)

Draft resolution A/C.5/58/L.62

30. *Draft resolution A/C.5/58/L.62 was adopted.*

Agenda item 131: Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (*continued*)

Agenda item 132: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (*continued*)

Management review of the Office of the Prosecutor at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (A/C.5/58/L.60)

Draft resolution A/C.5/58/L.60

31. *Draft resolution A/C.5/58/L.60 was adopted.*

Agenda item 134: Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations (*continued*)

Implementation of paragraph 3 of General Assembly resolution 57/323 (A/C.5/58/L.63)

Draft resolution A/C.5/58/L.63

32. *Draft resolution A/C.5/58/L.63 was adopted.*

Participation of United Nations Volunteers in peacekeeping operations (A/C.5/58/L.59)

Draft decision A/C.5/58/L.59

33. *Draft decision A/C.5/58/L.59 was adopted.*

Agenda item 119: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

Questions deferred for future consideration (A/C.5/58/L.66)

Draft decision A/C.5/58/L.66

34. *Draft decision A/C.5/58/L.66 was adopted.*

35. **Ms. Udo** (Nigeria) said that, under the agenda item entitled "Review of the efficiency of the administrative and financial functioning of the United Nations", her delegation would like the Secretary-General to submit to the Committee at the Assembly's fifty-ninth session a working document providing more comprehensive information than the information that had been submitted at the current session on the geographical distribution of seats in the Joint

Inspection Unit, the Advisory Committee on Administrative and Budgetary Questions and the International Civil Service Commission.

36. **Ms. Lock** (South Africa) said that the Group of African States was concerned at the underrepresentation of Africans, especially women, and had therefore requested from the Secretariat information on the geographical and gender distribution of managerial posts, including those of programme managers, and on the impact of retirements in that regard. While the Secretariat had responded to that request by providing statistics, the African Group would like the information to be submitted in the form of a working document at the Assembly's fifty-ninth session.

37. **Mr. Elnaggar** (Egypt) said that his delegation supported the requests made by the representatives of Nigeria and South Africa.

Completion of the work of the Fifth Committee during the first part of the resumed fifty-eighth session of the General Assembly

38. After an exchange of courtesies, **the Chairman** declared that the Fifth Committee had completed its work for the first part of the resumed fifty-eighth session of the General Assembly.

The meeting rose at 11.35 a.m.