

United Nations
**GENERAL
ASSEMBLY**

EIGHTH SESSION
Official Records



**FIFTH COMMITTEE, 406th
MEETING**

*Wednesday, 18 November 1953,
at 10.30 a.m.*

New York

C O N T E N T S

	<i>Page</i>
Budget estimates for the financial year 1954 (<i>continued</i>)	173
Personnel policy: reports of the Secretary-General and of the Advisory Committee on Administrative and Budgetary Questions	174

Chairman: Mr. Awni KHALIDY (Iraq).

Budget estimates for the financial year 1954 (A/2383 and Add.1, A/2403, A/2550, A/2551, A/2552, A/2557, A/C.5/551, A/C.5/552, A/C.5/553, A/C.5/559) (*continued*)

[Item 39]*

First reading (*continued*)

SECTION 5. INVESTIGATIONS AND INQUIRIES: UNITED NATIONS TRIBUNAL IN LIBYA

1. The CHAIRMAN drew the Committee's attention to the recommendation in paragraph 4 of the eighteenth report of the Advisory Committee (A/2551), the effect of which would be to reduce the appropriation requested for the United Nations Tribunal in Libya by \$5,000.

2. Mr. CAFIERO (Argentina) wished to have the Secretary-General's assurance that the reduction recommended by the Advisory Committee would in no way impair the normal functioning of the tribunal. Moreover, in future budget estimates the Secretary-General should, in his opinion, endeavour to achieve a better distribution of expenditure between the United Nations Tribunal in Libya and the United Nations Tribunal for Eritrea. If the former were to be abolished, the estimates for the latter would of necessity increase, which indicated that the estimates for the United Nations Tribunal in Libya included costs common to both tribunals.

3. Mr. ANDERSEN (Secretariat) assured the Argentine representative that the operation of the United Nations Tribunal in Libya would in no way be impaired by the reduction. It was true that the estimates for the United Nations Tribunal in Libya included costs common to both tribunals, but, as the Advisory Committee had pointed out in its seventeenth report (A/2550, paragraph 4), it might reasonably be assumed that the United Nations Tribunal for Eritrea would be able to complete its work before the end of 1954. That being so, there would probably be no need to prepare any more budget estimates for that body.

* Indicates the item number on the agenda of the General Assembly.

4. Mr. ZARUBIN (Union of Soviet Socialist Republics) proposed that the budget estimates for the United Nations Tribunal in Libya should simply be deleted. In his delegation's opinion, the functioning of that Tribunal was incompatible with the existence of the sovereign State of Libya and contrary to the principles of the United Nations Charter.

5. The CHAIRMAN put the USSR proposal to the vote.

The proposal was rejected by 29 votes to 5.

6. The CHAIRMAN put to the vote the Advisory Committee's recommendation of an appropriation of \$111,000 in respect of 1954 for the United Nations Tribunal in Libya under section 5 (A/2551, paragraph 4).

The Advisory Committee's recommendation was adopted on the first reading by 31 votes to 5.

7. Mr. A. K. FAHMY (Egypt) explained that he had voted against the USSR proposal, inasmuch as the Fifth Committee was not competent to decide whether or not the work of the United Nations Tribunal in Libya was necessary.

SECTION 5. INVESTIGATIONS AND INQUIRIES: UNITED NATIONS TRIBUNAL IN ERITREA

8. The CHAIRMAN called upon the Committee to vote on the Advisory Committee's recommendation (A/2550, paragraph 4) of an appropriation of \$25,000 under section 5 for the United Nations Tribunal for Eritrea, representing a reduction of \$3,100 in the estimate submitted by the Secretary-General.

9. Mr. ZARUBIN (Union of Soviet Socialist Republics) proposed that the estimates for that chapter should simply be deleted, for the reasons he had put forward in connexion with the foregoing chapter.

The USSR proposal was rejected by 26 votes to 5, with one abstention.

The Advisory Committee's recommendation was adopted at the first reading by 37 votes to 5, with one abstention.

SECTION 5. INVESTIGATIONS AND INQUIRIES: REPATRIATION OF GREEK CHILDREN

10. The CHAIRMAN drew the Committee's attention to document A/C.5/553, in which the Secretary-General proposed that section 5 should include an appropriation of \$5,000 for the reimbursable expenses which the International Committee of the Red Cross and the League of Red Cross Societies might incur during 1954 in respect of the repatriation of Greek children. He pointed out that the Advisory Committee had endorsed the proposal.

11. Miss MAGNIER (France) said that her delegation wished to thank the International Committee of the Red Cross for the altogether praiseworthy manner in which it was endeavouring to solve the sad problem of the repatriation of Greek children. She knew the technical and legal difficulties of the task the International Committee was carrying out and she realized that it had yet to overcome many obstacles which arose from the political angle that most of the countries sheltering the children had given to a problem which should be solved solely on the human level. Her delegation hoped that the neighbouring countries of Greece, including those which were not members of the United Nations, would come to a deeper understanding of the problem and that their joint efforts would help to efface the spectacle of children torn from their homes, a sight which the last war had made only too common.

12. The CHAIRMAN put to the vote the Advisory Committee's recommendation of an appropriation of \$5,000 under section 5 for the repatriation of Greek children (A/2552, paragraph 3).

The recommendation was adopted by 44 votes to 5 on the first reading.

PROPOSAL TO ACQUIRE AND OPERATE RADIO TRANSMITTERS AT THE UNITED NATIONS HEADQUARTERS AND AT GENEVA

13. The CHAIRMAN pointed out that, according to the information given in the report of the Secretary-General (A/C.5/559), the Secretary-General's proposal would entail an additional expenditure in 1954 of \$43,400 but would result in an increase of \$9,000 in miscellaneous income. In subsequent years, the appropriations under that heading would be reduced by a total of \$17,700 by comparison with the 1953 estimates, while there would be an increase of \$9,000 in miscellaneous income, as in 1954. In its twenty-second report (A/2557), the Advisory Committee concurred in the Secretary-General's proposal subject to certain reservations, and recommended a certain number of adjustments in the budget estimates for sections 18, 19 and 20 and in miscellaneous income.

14. Sir Alec RANDALL (United Kingdom) pointed out that the Advisory Committee's report had been circulated only that day. It had not been possible for his delegation to study the document in detail and to arrive at an opinion on the subject. He would therefore like the consideration of the proposal to be postponed until the following meeting.

It was so decided.

Personnel policy: reports of the Secretary-General and of the Advisory Committee on Administrative and Budgetary Questions (A/2553, A/2555, A/C.5/561)

[Item 51]*

15. The CHAIRMAN said that there had been few reports submitted to the Committee which had been awaited with greater interest and studied with greater care than the report of the Secretary-General on the subject of personnel policy (A/2553). It might at first glance seem a little strange that the Fifth Committee should undertake a detailed review of the guiding principles of United Nations personnel policy at a time when the General Assembly had to resolve many

serious issues of high political importance. It would be a mistake, however, to underestimate the importance of the question of personnel policy, particularly when considered in the light of the vital role which the Charter conferred upon the Secretary-General and the Secretariat. The Committee would undoubtedly welcome the opportunity for a free, frank and full exchange of views on the question and it deeply appreciated the honesty with which the Secretary-General had expounded the problem.

16. He drew the Committee's attention to the twenty-first report of the Advisory Committee on Administrative and Budgetary Questions (A/2555) and to the statement by the Staff Council transmitted in a note by the Secretary-General (A/C.5/561). He thanked the Advisory Committee for having submitted its recommendations at such short notice. He hoped that, in the exhaustive debate that the Fifth Committee would devote to the problem, delegations would bear in mind the matters upon which the Committee and the General Assembly would have to take a decision:

(a) The proposed amendments to the Staff Regulations; the texts recommended by the Secretary-General and by the Advisory Committee were to be found in paragraphs 15-22 of the Advisory Committee's report (A/2555);

(b) The proposed revision of article 9 of the Statute of the Administrative Tribunal; the texts recommended by the Secretary-General and by the Advisory Committee were to be found in paragraph 26 of the Advisory Committee's report (A/2555);

(c) The proposals submitted by the Secretary-General in connexion with the application to United Nations staff members of the relevant provisions of the United States Immigration and Nationality Act, as enumerated under paragraph 118 of the Secretary-General's report (A/2533); the Advisory Committee would submit its comments and recommendations on that point at a later date.

17. Mr. HAMMARSKJOLD (Secretary-General) introducing to the Committee the Report on Personnel Policy (A/2533) said he would limit himself to the few observations called for in the light of the report of the Advisory Committee (A/2555) and the memorandum presented by the Staff Council (A/C.5/561). His comments on those two documents might serve to amplify some points of special importance to the understanding of the report itself.

18. He welcomed the comments of the Advisory Committee which showed a very full understanding of the problems which the Administration and the Secretary-General had to face. In general, he thought that the amendments of the proposed text which the Committee had suggested were to be considered as valuable improvements. In a few cases, however, they developed the approach in the report in a way he did not find advisable.

19. The Advisory Committee wished to simplify the new clause concerning political activities. In the text proposed by the Secretary-General in his report he was given the possibility of making exceptions from the general prohibition of political activities. It was true that the text of the Advisory Committee put the responsibility for a proper interpretation of the term "political activities" on the Secretary-General, but as the text was drafted by the Advisory Committee it seemed to indicate that the Secretary-General would

not be permitted to make exceptions from the general rule where an activity, which undoubtedly was political in nature, in his view should be considered as admissible for an international civil servant. The Secretary-General thought that were such an interpretation to be put on the text, it would go too far and lead to unnecessary rigidity.

20. In the suggested amendment to Staff Regulation 9.1(a) (iii), the Advisory Committee had suggested the introduction of a reference to the general interest of the United Nations. He feared that this addition, of which he would appreciate an explanation from the Chairman of the Advisory Committee, might open the door to just those political considerations which he had intended to exclude by the explicit reference to the interest of sound administration of the Organization. Naturally, that referred to the interest of sound administration of the United Nations as a whole and not simply that of the Secretariat.

21. The Advisory Committee also considered that the special termination indemnity payable under the amendment to Staff Regulation 9.3 should be at the maximum only half again as large as that otherwise payable, and should only be possible in cases of termination under Staff Regulation 9.1(a) (iii) as amended. In the Secretary-General's view, however, broader powers of the Administration to terminate staff members' appointments in the administrative interest of the Organization necessarily required that liberal compensation should be possible where no fault was attached to a staff member. Were such compensation possible under Staff Regulation 9.1(a) (iii), it should also be possible where there was not even the suggestion that a staff member was unsuitable, for example, where the termination resulted from abolition of post or reduction of staff, or for reasons of health.

22. Finally, the Advisory Committee introduced a ceiling for compensation awarded by the Administrative Tribunal in cases of non-observance of the Staff Regulations which was much more restrictive than the one he suggested. He felt that the ceiling he had proposed simplified and clarified the situation without limiting the freedom of judgment of the Tribunal to an extent that would in practice change the rights of the staff members. He was afraid that by going to the point proposed by the Advisory Committee a new element would be introduced, as in very many cases the ceiling suggested would be below what the Secretary-General was now authorized under existing staff regulations to pay in indemnities for termination.

23. The Staff Council comments had raised a number of questions, most of which he did not consider it necessary for him to discuss at that time or place. In many cases they seemed to indicate a desire to obtain assurances concerning interpretations and political intentions to which he had already stated his adherence in the report. In some cases such a desire for clarification seemed based on misunderstandings of the text or of the legal situation which the Secretary-General might, if he thought it necessary, clarify in the course of the Committee discussion.

24. He said that he would proceed to give the Committee his views on those points which he found it was necessary to discuss at that time.

25. The Staff Council seemed to be under the impression that he had in some way redefined the status of the Tribunal so as to limit its powers. He said that was not the case. On the contrary he had stated explicitly

the right of the Tribunal to exert in new cases the powers vested in it by its Statute. He pointed out that while he had on the one hand reaffirmed the right of the Tribunal to decide on its own competence, he had on the other hand tried to define the status of the Tribunal in relation to the General Assembly in a way which fully confirmed its independence.

26. The second point to which the Staff Council had drawn special attention was the proposed Staff Regulation 9.1(a) (iii) according to which the Secretary-General would have the right to terminate a Staff Member in the interest of good administration provided that his action was based on the criteria established in the Charter. He recognized that such a clause—as most legal rules of this kind—was open to abuse, but it seemed to him that the Staff Council had given too much weight to the risk of such abuse and too little weight to the facts which spoke in favour of the clause in the very interest of the Staff itself.

27. What had determined him to introduce the clause on good administration was—as he had explained in the report—the wish to open possibilities for action where such action was necessary for reasons spelled out in the Charter, without unnecessarily stigmatizing the Staff Member. For example, if there were to be no such clause, the Secretary-General would be forced, in the case of political activities, incompatible with the status of an international civil servant, to resort to disciplinary action and label the attitude of the Staff member as misconduct. He said he would very much regret being faced with such a necessity, and he failed to see how it could be in the interest of the Staff to force the Secretary-General to apply such a procedure. His remarks would serve to illustrate the reasons which in his view indicated that the proposed regulation was in the interest of the Staff. He had, in fact, proposed it mainly in that interest and under such circumstances he said that he considered it was obvious that if the Staff member concerned should wish to have the reasons for his termination stated by the Secretary-General, his wish should be met. In the same way it was obvious that if the Staff member were to appeal against a decision, the Secretary-General should give his reasons for action in his presentation of the case to the Tribunal. He pointed out that in fact, the situation was entirely different under regulation 9.1(a) (iii) from what it was under Staff Regulation 9.1(c), where the Secretary-General was not considered as being under any obligation to state his reasons. It was also obvious that the Advisory Board, which the Secretary-General had to consult before reaching a decision, should be fully informed of the facts of the situation.

28. He agreed that the Staff Council was right to point out the possibility of abuse of the proposed Staff Regulation. But he felt that with the obligation of the Secretary-General to give to the Staff member his reasons for action if the Staff member so desired, his obligation to present the case fully to the Advisory Board, on which the Staff would be represented, and his obligation to explain his actions to the Tribunal, the safeguards against abuses were so strong that the risk could not possibly outweigh the advantage of the clause from the Staff point of view.

29. He had said in his report that that special regulation was not included in his minimal programme for amendments to the Staff Regulations. That meant he considered the regulation desirable, although he considered that the Secretary-General might perhaps

be able to take the necessary action even without such a regulation. The new regulation, as he had said, would be in the interest of the Staff. It would enable the Secretary-General to develop his policy in individual cases in a way which would be much more humane than the ways which would otherwise be open to him.

30. He reminded the Committee that the points included in the minimal programme were three. The explicit prohibition of political activities—approved also by the Staff Council and meeting a generally recognized need; the introduction of integrity as a recognized standard deriving from the Charter not only, as already was the case, at the five-year review, but as a criterion to be applied also in the time between the reviews, and, finally, a legal sanction for seriously misleading or incomplete information in the application for a post. Such a programme might present difficulties of implementation but seemed to the Secretary-General to be self explanatory and anything but revolutionary.

31. The Staff Council had finally raised the question of a postponement of the General Assembly decision on these issues. He found it difficult to see how such a postponement could be in the interest of either the Organization or the Staff itself. The absence of the new rules would make it necessary to take action on the basis of legal texts whose weaknesses and ambiguities had been fully demonstrated by recent developments. A delay in settling the pending questions would also mean that the date when the Staff and the Organization could be brought out of the unfortunate discussions concerning personnel policy, which had been going on for far too long, would be postponed, to the detriment of Staff morale and of the prestige of the Staff in public opinion. Finally, such a postponement would make it very difficult to reach a satisfactory conclusion concerning the status of the Tribunal and its decisions, if as was likely—this question were to be raised in the discussion concerning the supplementary appropriations for certain indemnities decided upon by the Tribunal. For those reasons he must advise against postponing the problem for further study, which was not likely to lead to any greater clarity and against which very serious objections could be raised.

32. Mr. Hammarskjöld noted that in the Staff Council's report attention was also drawn to the new principles proposed for the appointments policy. Criticism was being directed against the suggestion that employees of the Organization belonging to the category of manual workers should not be given permanency of tenure as civil servants. On that point he would like to say that a reasonable permanency of tenure could and should be achieved for such employees, but that the nature of their work could not be considered as providing the basis for such tenure under the special conditions applying to the civil service. The value or quality of the work was not in question in this case but the nature of the work and the extent to which this should influence the special form in which permanency of tenure was provided for.

33. In concluding he wished to say that the proposals under consideration were based on a strong personal conviction of what would best serve the interests not only of the Organization as such but just as much of the Staff. He would regret it were they not to meet with the approval of the Fifth Committee and the General Assembly, because it would, in his view, mean that an opportunity to straighten out certain conditions which need straightening out had been missed. He had

made his proposals on a strictly objective basis as a chief administrative officer putting his conclusions before the General Assembly, in no way inspired by considerations of expediency, parliamentary opportunities or the prestige of his office.

34. Mr. AGHNIDES (Chairman of the Advisory Committee on Administrative and Budgetary Questions) wished to say a few words of introduction in presenting the report of the Advisory Committee to the Fifth Committee.

35. In the brief period of time allotted to it, the Advisory Committee had necessarily been compelled to confine its review mainly to the texts of additional articles or amendments to existing articles in the Staff Regulations and in the Statute of the Administrative Tribunal.

36. As he had foreseen when the Fifth Committee was discussing the question whether or not to refer these matters to the Advisory Committee, the principles involved were so fundamental that the Advisory Committee would have been in an easier position had the Fifth Committee given them a lead on the controversial points, such as, for example, should discretionary power be granted to the Secretary-General or were his powers under the existing regulations and rules adequate.

37. He hoped, therefore, for indulgence in their examination of the report he now submitted. The work had not been easy; on the two most controversial points the Advisory Committee's recommendations were arrived at by narrow majorities. He could give one assurance: the Advisory Committee had done its best without having to strain its convictions or its conscience.

38. Mr. Aghnides considered that it might perhaps be helpful if he outlined the points of difference in the text proposed respectively by the Secretary-General and by the Advisory Committee.

39. First with regard to Regulation 9.1(a), there was no difference between the two texts in so far as the preamble and sub-paragraph (i) were concerned.

40. Sub-paragraph (ii) showed the following differences: in the Advisory Committee's text the word "administrative" had been struck out before the word "suitability".

41. As to sub-paragraph (iii) the Advisory Committee recommended the amendment of the Secretary-General's text through the substitution of the words "good administration of the Secretariat or in the general interest of the United Nations" for the words "good administration of the Organization". The Advisory Committee felt that the latter phrase, in the Secretary-General's text, was unduly restrictive, in that cases might well arise—as they had done in the past—in which it would not be possible for the Secretary-General to limit the criteria of judgment solely to administrative necessities. Other considerations transcending the purely administrative aspect of a particular case might have to be borne in mind, and in such an eventuality the Secretary-General might, on the basis of his own text, meet with difficulty in establishing the necessary proof.

42. The un-numbered sub-paragraph at the end of the Staff Regulation 9.1(a) remained the same in both proposals.

43. With regard to Regulation 1.4, there was no difference between the texts submitted respectively by the Secretary-General and the Advisory Committee.

44. The Advisory Committee's text for Staff Regulation 1.7 differed from that of the Secretary-General through the omission in the Committee's text of the opening phrase "unless otherwise authorized in accordance with Staff Rules issued by the Secretary-General". The reason for the amendment recommended by the Advisory Committee was that it felt it was desirable that the initiative for proposing any exceptions to the regulation should rest exclusively with the Secretary-General, and that no initiative in the matter should be left to the staff member. It would be for the Secretary-General, where he considered it appropriate, to grant the necessary authority to a staff member. He added that the Advisory Committee's text would not, in his opinion, derogate from the power which was proposed under the Secretary-General's text.

45. He called attention to Staff Regulation 9.3 where the principal difference was that the additional in-

demnity payment which the Advisory Committee recommended was 50 per cent of that proposed by the Secretary-General and was limited to staff members terminated under sub-paragraph (iii) only.

46. Finally, with regard to the Statute of the Administrative Tribunal, the principal differences were: first, that the Advisory Committee maintained the existing introductory phrase for article 9, paragraphe 1. That was to provide that "if the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested". Second, that the Advisory Committee recommended limiting the compensation to one year's net base salary as compared with the two years proposed by the Secretary-General.

47. He concluded by stating that this was not an opportune moment for him to enter into the philosophy of the Advisory Committee's report. He would, however, be pleased to do so at the appropriate stage as well as to reply to any questions of detail the members of the Fifth Committee might wish to put to him.

The meeting rose at 12 noon.