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ADMINISTRATIVE AND BUDGETARY CO-ORDINATION OF THE UNITED NATIONS WITH THE SPECIALIZED AGENCIES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY

Harmonization of the statutes, rules and practices of the
administrative tribunals of the International Labour
Organisation and of the United Nations

Report of the Secretary-General

Addendum

The present addendum reproduces in its annex the substantive comments from Member States on the proposals set out in the Secretary-General's report to the forty-third session of the Assembly (A. 1/704) on the harmonization of the statutes, rules and practices of the administrative tribunals of the International Labour Organisation and of the United Nations received after the deadline of 31 May 1989.

* A/44/150.

Annex

1. ITALY

[Original: English]

[7 June 1989]

The Permanent Mission of Italy has the honour to state that the Government of Italy has no objection to the proposals contained in the document quoted. This is consistent with the position previously taken which supported also the more wide-ranging proposals contained in document A/42/328.

2. MOROCCO

[Original: French]

[15 June 1989]

Morocco considers that, given that the practices of the United Nations and International Labour Organisation tribunals have developed in parallel, a period of harmonization and co-ordinated modification of their statutes and rules is definitely needed before the establishment of a single administrative tribunal.

During the transition period, however, the creation of an *ad hoc* higher body to deal with conflicts might be envisaged. Such a body would have the following characteristics:

(a) It would contain the same number of members from the United Nations and ILO tribunals;

(b) It would entertain submissions, as necessary, from both the Secretary-General of the United Nations and the Director-General of ILO;

(c) Its function would be to consider any cases which challenged either the jurisprudence or the respective powers of the two tribunals;

(d) Without prejudice to the advisory powers of the International Court of Justice under Article 96 of the Charter of the United Nations and Article 65 of the Statute of the Court, decisions of the new body could either take effect directly or be communicated to the tribunal whose decision was challenged, when its original judgement is upheld.

As for the possibility raised in the resolution annexed to the report of the Secretary-General, whereby the two tribunals officially seek one another's opinions on particular cases and the two jointly consider related cases, this would seem difficult to apply for two main reasons:

/...

(a) First, neither tribunal can be asked to give an official opinion on a case which has not been brought before it in the regular manner;

(b) Second, organizational considerations and the division of powers prevent the tribunals of the United Nations and ILO from jointly considering related cases.

3. SOUTH AFRICA

[Original: English]

[5 July 1989]

The Department of Manpower advised that the envisaged harmonization between the Administrative Tribunals of the United Nations and the International Labour Organisation would seem advisable in so far as it appears to be practical to implement such action. The appointment of assessors, which is also contemplated to represent the interests involved, and who would play an active role in the decisions of the tribunals, might also be considered an acceptable consideration.
