

United Nations
**GENERAL
ASSEMBLY**

FIFTEENTH SESSION

Official Records



**FIFTH COMMITTEE, 787th
MEETING**

Wednesday, 9 November 1960,
at 3.25 p.m.

NEW YORK

CONTENTS

	Page
<i>Agenda item 59:</i> <i>Public information activities of the United Nations: report of the Secretary-General (continued)</i>	151
<i>Agenda item 64:</i> <i>Proposed amendments to certain provisions of the Pension Scheme Regulations of the International Court of Justice (continued)</i>	152

Chairman: Mr. Mario MAJOLI (Italy).

AGENDA ITEM 59

Public information activities of the United Nations: report of the Secretary-General (A/4370, A/4408, A/4429, A/C.5/L.617/Rev.1 and Rev.1/Add.1, A/C.5/L.619) (continued)

1. Mr. AHMED (Sudan) said that, after further consideration, the sponsors of the twenty-Power draft resolution (A/C.5/L.617/Rev.1 and Rev.1/Add.1) had decided that they could not accept the two-Power amendment (A/C.5/L.619) because it would emphasize a point which had already been stressed in past resolutions, particularly in General Assembly resolution 1405 (XIV), and on which the Committee had received adequate assurances from the Secretary-General's representative at the 786th meeting. He wished to leave no doubt in the minds of the members of the Committee regarding the attitude of the sponsors towards budgetary stabilization: they were completely convinced of the need for economy in expenditure on public information activities.

2. Mr. HILLIS (United Kingdom) said that he would be satisfied if some reference to a limitation on expenditure, which most members of the Committee seemed to consider desirable, were inserted in the preamble of the draft resolution. He felt that misunderstandings might arise in the future unless the figure of \$5 million appeared somewhere in the text of the draft resolution. He accordingly proposed that the following paragraph should be inserted after the fifth preambular paragraph:

"Noting that the Secretary-General has for 1960 and 1961 maintained the total net budget for public information at about \$5 million for each year".

3. Mr. HAILEMARIAM (Ethiopia) said that his delegation would support the United Kingdom proposal if the Under-Secretary for Public Information could assure the Committee that the inclusion of such a paragraph would not hamper the progressive establishment of new information centres.

4. Mr. TAVARES DE SA (Under-Secretary for Public Information) said he proposed to do his utmost to promote the establishment of new information centres in under-developed areas. He was also determined to keep expenditure within the budgetary limits laid down. He felt sure that, with the careful husbanding of resources and personnel, and with the co-operation of the Governments of the countries where new information centres would be situated, the results achieved in 1961 would be satisfactory to the members of the Fifth Committee.

5. Mr. TURNER (Controller) suggested that, since there was technically no separate budget for OPI the United Kingdom amendment might be more appropriately formulated as follows:

"Noting that for the years 1960 and 1961 the Secretary-General has planned the public information programmes at an expenditure level of about \$5 million net for each year".

6. He assured the Committee that the Secretary-General had planned public information expenditure for the years 1960 and 1961 on the principle of maximum efficiency and minimum cost. The acceptance or rejection of the United Kingdom amendment, therefore, would not affect the Secretary-General's policy with regard to the planning of public information programmes in 1961.

7. Mr. HILLIS (United Kingdom) and Mr. BLOIS (Canada) withdrew their amendment (A/C.5/L.619) and accepted the wording proposed by the Controller for the amendment to the preamble to the draft resolution.

The amendment was adopted by 49 votes to 5, with 11 abstentions.

8. Mr. HAILEMARIAM (Ethiopia) requested a separate vote on the words "by effecting economies in other directions" in operative paragraph 1 of the draft resolution.

Those words were adopted by 62 votes to none, with 7 abstentions.

9. Mr. EL HAKIM (United Arab Republic) requested a separate vote on operative paragraph 2 of the draft resolution.

Operative paragraph 2 was adopted by 69 votes to none, with 1 abstention.

The twenty-Power draft resolution (A/C.5/L.617/Rev.1 and Rev.1/Add.1), as amended, was adopted by 61 votes to none, with 9 abstentions.

10. Mr. OLIVEIRA (Portugal) said that his delegation had voted in favour of the draft resolution as it recalled previous resolutions adopted on the matter. His delegation had abstained from voting on the amendment because it saw no need to state implicitly endorsed principles.

11. Mr. CUTTS (Australia) said that the opposition of the sponsors of the joint draft resolution towards the two-Power amendment had raised doubts as to their position regarding budgetary stabilization. He felt that \$5 million was the maximum that should be spent on public information activities and the Organization would simply have to do without what could not be covered by that sum. He had, nevertheless, voted for the draft resolution after hearing the Controller's assurance that budgetary stabilization was the Secretary-General's policy, and the Sudanese representative's explanation of the sponsors' attitude. But if there was any proposal in 1962 for a marked increase in OPI expenditure, his delegation would oppose it.

12. Mr. CZARKOWSKI (Poland) said that his delegation had abstained from voting on the draft resolution because it did not take into account the views expressed by his own and other delegations in the discussion on public information activities. The Secretary-General had not taken sufficient measures to implement the provisions of resolution 1405 (XIV), particularly with regard to adequate regional representation at the policy-making level of OPI. For that reason, he could not approve the first preambular paragraph of the resolution. For the same reason, he was unable to support the reference in the third preambular paragraph to "the progress achieved in the implementation of the above-mentioned resolutions". In his opinion the discussion had revealed an immediate need for drastic measures to bring about an equitable distribution of posts in OPI.

13. Mr. MORRIS (Liberia) said that he had abstained from voting on the words "by effecting economies in other directions" in operative paragraph 1 because he had felt that more might be read into those words than had been intended by the sponsors.

14. Mr. TELLO PACHECO (Guatemala) said that his delegation had voted in favour of the draft resolution on the understanding that any new information activities would not be prejudicial to information services already being provided to areas which particularly needed them, such as Latin America. He would point out, in that connexion, that there had already been considerable reductions in the number of radio programmes broadcast in Spanish to Latin American countries, and that television broadcasts and films for those countries had also been curtailed.

15. Mr. HAILEMARIAM (Ethiopia) said that his delegation had voted for the two-Power amendment because it had received an assurance that its adoption would not impede the establishment of new information centres. He asked the Rapporteur to include in his report a reference to the Ethiopian delegation's objections to the use of the word "other" in operative paragraph 1.

16. He asked for information to be included in the 1962 budget estimates concerning the funds allocated for each information centre so that the Fifth Committee would be in a better position to make comparisons. He also asked for an assurance that OPI made all the necessary facilities available to the Advisory Committee on Administrative and Budgetary Questions.

17. Mr. TURNER (Controller) said that any deficiencies in the data on information centres provided in the budget estimates were due to an oversight, which would be corrected in the estimates for 1962 and subsequent years.

18. He assured the Ethiopian representative that OPI was always ready to provide the Advisory Committee with any service or facility which it needed. If there was any respect in which OPI had not done so in the past, the omission would be promptly and willingly rectified.

19. Mr. AHMED (Sudan), speaking on behalf of the sponsors of the draft resolution, said that the Australian representative had incorrectly interpreted their attitude towards public information expenditure. All the sponsors agreed on the necessity for budgetary stabilization to which explicit reference had been made in the preamble.

AGENDA ITEM 64

Proposed amendments to certain provisions of the Pension Scheme Regulations of the International Court of Justice (A/4424, A/4544, A/C.5/L.615) (continued)*

20. Mr. RAJAPATIRANA (Ceylon) said that the General Assembly, before adopting its resolution 1408 (XIV), had had the benefit of the advice of the Sixth Committee, as well as that of the Fifth Committee, on the proposals submitted to it for amendment of certain provisions of the Pension Scheme Regulations of the International Court of Justice. His delegation therefore suggested that it might perhaps be advisable for the Fifth Committee to seek the views of the Sixth Committee on the amendment to those Regulations proposed in document A/C.5/L.615. In order to take a well-considered decision on that amendment, his delegation wished to know what was the principle underlying the selection of five years as the term of service required for pension eligibility. As the amendment was concerned with entitlement to pension, it would more appropriately be included in paragraph 1, rather than in paragraph 2 of article I. The amendment appeared, moreover, to impair the balance of the revised regulations which had been proposed by the Secretary-General and endorsed by the Advisory Committee. A provision under which a judge was entitled, after three years' service, to the same pension as though he had completed five years' service was somewhat discriminatory and his delegation considered that a system of prorated pensions based on length of service would be preferable.

21. Mr. PRATT (Israel) said that his delegation welcomed the Secretary-General's proposals, which would substantially improve the conditions of service with the principal judicial organ of the United Nations. Those conditions would be such that they would attract the most qualified personnel available and that the members of the Court would be able to exercise their functions with the greatest possible measure of judicial independence.

22. He had been impressed by the arguments of those representatives who had spoken in support of the amendment to the Regulations contained in document A/C.5/L.615. They fully justified its adoption. Unless the Regulations included a provision such as that proposed in the amendment, eminent jurists might well hesitate to agree to fill a casual vacancy of less than five years' duration if the resulting interruption of their service in their national courts might prejudice their pension rights under their respective national

*Resumed from the 781st meeting.

laws. His delegation would vote in favour of the proposed amendment.

23. Mr. BENDER (United States of America) said that, in his delegation's view, the Secretary-General's proposals, which were more far-reaching than those made by the Court itself, had great merit and, subject to the comments and recommendations of the Advisory Committee (A/4544), should be approved by the Fifth Committee.

24. The amendment proposed in document A/C.5/L.615 was based on paragraph 2 of article I of the existing Regulations, which could be deemed to constitute a precedent. However, there was a distinction between the present paragraph 2 and the proposed amendment. The former applied to judges who, when elected at the first session of the General Assembly, had no defined term of office and could not be certain whether they would serve for three, six or nine years. In such circumstances, equality of pension entitlement was justified. The proposed amendment related to a somewhat different situation. Judges elected to fill unexpired terms knew in advance the length of time for which they were elected and could determine in advance whether the pension Regulations applied in their case. There appeared to be no reason, therefore, why a judge who sought election for an unexpired term of three years should be awarded a pension as though he had served five years.

25. In the interest of securing a compromise, his delegation suggested that the proposed amendment should be modified to provide that the period of service required to qualify for a pension in the case of a member of the Court who was elected to fill a casual vacancy and was not re-elected should be three years, the pension to be calculated as provided under article I, paragraph 2, of the revised Regulations. Adoption of such a provision might necessitate certain other consequential amendments to the Regulations, the preparation of which might be entrusted to the Secretary-General.

26. Sir Robert GRIMSTON (United Kingdom) said that his delegation welcomed the assurance given by the representative of Panama at the 781st meeting that the amendment submitted in document A/C.5/L.615 was put forward as a matter of substance and of principle. The question of principle was whether, in the case of judges of the International Court who were elected to fill a casual vacancy but were not re-elected, the qualifying period of service for a pension should properly be three years and not five. Any administrative limit might produce hard cases. A man who had served for fifty-nine months might criticize a five-year limit, while one who had served for thirty-five months might criticize a three-year limit. However, it was essential that those concerned should be fully aware of the exact benefit to which they were entitled and detailed regulations were therefore unavoidable.

27. The five-year qualifying period for pension entitlement had been widely adopted in the United Nations and elsewhere. His delegation doubted whether there was any justification for making an exception to the general rule in the case of the International Court. The Committee should bear in mind that such an amendment would not be consistent with the general provisions of the United Nations Joint Staff Pension Fund. A further objection was that the amendment, as at present drafted, might give rise to a pension of

\$7,500 for a judge who had already retired without a pension. His delegation would, however, abstain from voting in view of the fact that elections were shortly to be held to fill the casual vacancy caused by the death of Sir Hersch Lauterpacht and the United Kingdom might therefore be considered to have a contingent interest in the case covered by the proposed amendment.

28. With regard to the draft resolutions as a whole, his delegation had certain misgivings concerning the Secretary-General's proposal (A/4424, para. 26) that former judges already retired should opt whether to have their entitlement based on the provisions of the existing scheme or on those of the new scheme. The General Assembly had never admitted the principle that there should be an automatic link between pensions paid to existing pensioners, and improvements in benefits for staff still in service. Acceptance of such a principle would have serious repercussions and the question would therefore have to be given very careful consideration by the Committee.

29. However, his delegation recognized that a case might sometimes be made for approval of an *ad hoc* increase in existing pensions, when warranted by circumstances. It therefore suggested that the option granted to former members of the Court under article VII, paragraph 2, of the draft Pension Scheme Regulations (A/4424, annex II) should be replaced by a provision under which pensions being paid under the previous Regulations would be supplemented by an *ad hoc* increase of a percentage to be determined by the Fifth Committee; an appropriate figure might be 12 per cent.

30. Mr. KITTANI (Iraq) said that, in view of the general review of the Pension Scheme Regulations of the International Court which had been carried out by the Secretary-General, the situation was not the same as it had been at the fourteenth session and he did not believe that there was any need to seek the views of the Sixth Committee, as the Ceylonese representative had suggested.

31. His delegation supported the Secretary-General's proposals, subject to the observations of the Advisory Committee. It reserved comment on the amendment to the Regulations proposed in document A/C.5/L.615.

32. Mr. CUTTS (Australia) said that his delegation was unable to support the amendment in document A/C.5/L.615 for several reasons. First, the Committee had no knowledge of the views of the Secretary-General, the Advisory Committee or the Court itself on the proposal.

33. Second, his delegation did not regard three years' service as an adequate qualifying period for pension entitlement. Furthermore, no reason had been advanced for selection of the specific period of three years.

34. Third, the amendment did not remove the anomaly under which a judge who served fifty-nine months acquired no pension rights whereas one who served sixty months did. The anomaly would merely arise in connexion with a different time-limit, a judge who had served thirty-six months becoming entitled to a pension, but not one who had served thirty-five.

35. Fourth, there was no injustice under the existing Regulations, as had been alleged, since all persons who

sought election to fill a casual vacancy of less than five years were fully aware that their service could entail no pension rights.

36. Fifth, the special arrangements made to cover the special conditions under which the first elections had been made to the International Court of Justice could not be invoked as a general precedent to give guidance in an entirely different kind of situation.

37. Sixth, even if it was agreed that three years' service should give rise to pension rights, the rate of pension should be related to the period actually served, as the United States representative had proposed.

38. Mr. EL HAKIM (United Arab Republic) suggested that, rather than a pension, a payment based on length of service should be made to judges elected to fill casual vacancies of less than five years. Such a solution would avoid the difficulties which selection of any arbitrary minimum period of service involved.

39. Mr. GANEM (France) considered that everything possible should be done to enhance the independence and authority of the members of the International Court for whom his delegation had the greatest respect. There had already been striking examples of the impartiality of judges called upon to deal with cases involving their own countries. His delegation was therefore glad to support the Secretary-General's proposals which had been endorsed by the Advisory Committee. It also supported the suggestions made at the present meeting by the representatives of the United States of America and the United Arab Republic.

40. With reference to the observations of the United Kingdom representative, he wished to point out that the Pension Scheme of the International Court was in no way comparable with the United Nations Joint Staff Pension Fund, which was a contributory scheme.

41. Mr. TURNER (Controller), replying to the inquiry of the representative of Ceylon, said that the requirement of a minimum of five years' service had been laid down as a principle in the Pension Scheme Regulations of the Permanent Court of International Justice. It was obviously necessary to stipulate some minimum period of continuous service as a safeguard against premature resignations. The Pension Scheme adopted for the International Court of Justice under General Assembly resolution 86 (I) had reintroduced the five-year principle, which was maintained in the revised Regulations now before the Committee.

42. In reply to the Australian representative's inquiry he wished to make it clear that the Secretary-General did not feel called upon to express any view on the five-Power amendment, which raised a question of policy for decision by the Committee and whose adoption would not affect the balance or structure of the revised Regulations. The amendment had been brought to the attention of the International Court of Justice. The President of the Court had felt that it would not be proper for him to intervene in the matter, and the judges had decided to leave it to the discretion of the General Assembly. The President had said, however, that he had no objection to the substance of the amendment, which the Court regarded merely as extending the application of a principle laid down by the General Assembly at its first session with reference to the initial appointments for a partial term of office. However, as the United States representative had pointed out, the situation covered by the five-

Power amendment was perhaps not strictly parallel with that provided for in regulation 2 of the annex to General Assembly resolution 86 (I).

43. It would be inappropriate for the Secretary-General to express an opinion on the principle of the United States proposal that, where short-term appointments to the Court were concerned, the rate of pension should be adjusted to length of service. The embodiment of that principle in the Regulations was entirely feasible but would entail some consequential readjustments of benefits in order to obviate anomalies. For example, the minimum rate of disability benefit, to which a judge might become entitled at any stage of his service, was \$5,000; that was considerably more than the pension which would be payable after three years' service if the United States proposal was adopted—i.e., approximately \$3,000. Widows' pensions and children's benefits would also require adjustment. The Secretariat and the Advisory Committee would need time to study the necessary changes in the Regulations.

44. The United Kingdom representative's query regarding the propriety or necessity of applying a new scale of benefits to pensions already in payment raised yet another question of principle for the Committee, and not the Secretary-General, to decide. In the past the General Assembly had, in comparable circumstances, taken a clear position with regard to the principle of retroactivity. The Secretary-General's recommendation in the proposed article VII, paragraph 2, was based on practical considerations: there were not more than five pensions currently in payment, and the situation with which the proposal was designed to deal would not persist indefinitely. He wished to make it clear to delegations that the Pension Scheme for the Court, unlike the United Nations Joint Staff Pension Fund, was not a funded scheme.

45. Mr. AGHNIDES (Chairman of the Advisory Committee on Administrative and Budgetary Questions) pointed out that the draft Regulations before the Committee were the outcome, first, of thorough study by the Secretary-General in consultation with the International Court of Justice—which took a keen interest in such matters—and, secondly, of further scrutiny by the Advisory Committee. His long experience enabled him to anticipate that the Advisory Committee would consider that the same procedure should be followed in connexion with the five-Power amendment and the proposals put forward by the representatives of the United Arab Republic, the United Kingdom, and the United States of America.

46. Mr. ILLUECA (Panama) observed that the Controller's statement had undoubtedly dispelled some of the doubts expressed by previous speakers regarding the five-Power amendment, of which his delegation was a sponsor. His delegation appreciated the good intentions which had prompted representatives of the United States of America and the United Arab Republic to make their proposals. However, the Committee had learned from the Controller that the five-Power amendment would not affect the balance of the draft Regulations, whereas the other proposals made during the meeting would involve the Secretariat and the Advisory Committee in a considerable expenditure of time and, probably, of money—perhaps more than the cost of the pensions in question. He therefore suggested that the Committee should proceed without

delay to act on the five-Power amendment which, as he had pointed out at the 781st meeting, would not constitute an innovation.

47. Mr. BENDER (United States of America) said he would like to know as soon as possible what changes in the existing recommendations his proposal would entail; if they were extensive and would require a long period of study, his delegation would reconsider its proposal.

48. Mr. VENKATARAMAN (India) said that his delegation objected in principle to the new article VII, paragraph 2, recommended by the Secretary-General and the Advisory Committee because it did not consider that any change which might be made in the Pension Scheme should be retroactive. To make an exception to that principle would set an undesirable precedent. Where the five-Power amendment was concerned, his delegation agreed with that of the United States. He proposed that the Committee should refer the five-Power amendment, as well as the proposals made in the course of the meeting by the representatives of the United Arab Republic, the United Kingdom, and the United States of America to the Advisory Committee for examination and advice.

49. Mr. TURNER (Controller) felt that the Committee would be ill-advised to subject the Pension Scheme Regulations to any change which had not been thoroughly considered. Moreover, it would be imprudent for the Secretariat and the Advisory Committee to attempt to supply, at very short notice, the information just requested by the United States representative.

50. The situation which the five-Power amendment was designed to cover could not arise before 1964. He suggested that the Committee could now, if it wished, take action on the revised regulations as recommended by the Advisory Committee, and thus solve the pressing problem of those judges whose terms of office—greatly in excess of five years—expired early in 1961. The Committee might draw attention in its report to the existence of a problem not adequately covered by those revised Regulations—

namely, the pension rights of judges elected to serve for the remainder of an uncompleted term of office and not re-elected—and might ask the Secretary-General, in consultation with the International Court of Justice and the Advisory Committee, to consider a solution to that problem in the light of the discussion in the Committee, and report to the General Assembly at its sixteenth session. A year's delay in dealing with that particular problem would not prejudice the interests of any present or future member of the Court.

51. Mr. ILLUECA (Panama) considered that it would be more practical for the Committee to deal with the subject of the five-Power amendment while it had all the relevant information before it.

52. Mr. VENKATARAMAN (India) explained that, in making his proposal, he had intended that the Advisory Committee should report before the end of the current session.

53. Mr. CUTTS (Australia) supported the Indian proposal.

54. Mr. AGHNIDES (Chairman of the Advisory Committee on Administrative and Budgetary Questions) said that, if the Indian proposal was adopted, the Advisory Committee would be able to report to the Fifth Committee within ten days. In considering the question raised in the five-Power amendment, the Advisory Committee would be acting on the assumption that there was general agreement in the Fifth Committee on the existence of a problem and on the need to make some provision to deal with it.

55. In reply to a question from the CHAIRMAN, Mr. ILLUECA (Panama) said that, subject to the consent of the other four sponsors of the five-Power amendment, his delegation accepted the Indian proposal. He was grateful to the Chairman of the Advisory Committee for his promise of prompt action.

The Indian proposal was adopted.

The meeting rose at 5.55 p.m.