United Nations A/64/454

General Assembly

Distr.: General
4 November 2009

Original: English

Sixty-fourth session
Agenda item 142

Administration of justice at the United Nations

Report of the Sixth Committee

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I. Introduction

1. By its decision 63/531 of 11 December 2008, the General Assembly decided to include in the provisional agenda of its sixty-fourth session the item entitled "Administration of justice at the United Nations".

2. At its 2nd plenary meeting, on 18 September 2009, the General Assembly, on the recommendation of the General Committee, decided, in the light of resolution 63/253 and decision 63/531, to include the item in its agenda and to allocate it to the Fifth Committee for its consideration and to the Sixth Committee for the purpose of considering the legal aspects of the reports to be submitted under this item, including the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal.

3. The Sixth Committee considered the item at its 1st and 12th meetings, on 5 and 20 October 2009. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/64/SR.1 and 12).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Ad Hoc Committee on the Administration of Justice at the United Nations (A/64/55);

(b) Report of the Secretary-General on the approval of the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal (A/64/229);

(c) Report of the Secretary-General on the practice of the Secretary-General in disciplinary matters and possible criminal behaviour, 1 July 2008 to 30 June 2009 (A/64/269);

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(d) Report of the Secretary-General on the outcome of the work of the Joint Appeals Board during 2007 and 2008 and between January and June 2009 and statistics on the disposition of cases and work of the Panel of Counsel (A/64/292);

(e) Report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/64/314).

5. On the recommendation of the Ad Hoc Committee on the Administration of Justice at the United Nations, the Sixth Committee decided, at its 1st meeting, on 5 October, to establish a Working Group on the Administration of Justice at the United Nations, in order to fulfil the mandate conferred by the General Assembly on the Committee, namely the consideration of the legal aspects of the reports to be submitted under this item, including the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. At the same meeting, the Committee elected Mr. Ganeson Sivagurunathan (Malaysia) as Chairman of the Working Group and decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Working Group held four meetings, on 5, 6 and 9 October 2009.

6. Also at the 1st meeting of the Sixth Committee, the Chairman of the Ad Hoc Committee on the Administration of Justice at the United Nations introduced the report of the Ad Hoc Committee.

7. At the 12th meeting of the Sixth Committee, on 20 October, Mr. Esmaeil Baghaei Hamaneh (Islamic Republic of Iran), Vice-Chairman of the Sixth Committee, presented, on behalf of the Chairman of the Working Group of the Sixth Committee on the Administration of Justice at the United Nations, an oral report on the work of the Working Group (see A/C.6/64/SR.12).

II. Consideration of draft resolution A/C.6/64/L.2 and draft decision A/C.6/64/L.3

8. At the 12th meeting of the Sixth Committee, on 20 October, Mr. Esmaeil Baghaei Hamaneh (Islamic Republic of Iran), Vice-Chairman of the Sixth Committee, introduced, on behalf of the Chairman of the Working Group of the Sixth Committee on the Administration of Justice at the United Nations, a draft resolution and a draft decision, both entitled “Administration of justice at the United Nations” (A/C.6/64/L.2 and A/C.6/64/L.3, respectively).

9. At the same meeting, the Committee adopted draft resolution A/C.6/64/L.2 and draft decision A/C.6/64/L.3 without a vote (see paras. 11 and 12).

10. Also at the same meeting, the Committee decided that its Chairman would send to the President of the General Assembly a letter indicating a number of elements that, in the view of the Committee, should be included in the report to be submitted by the Secretary-General pursuant to paragraph 59 of General Assembly resolution 63/253, for consideration at the sixty-fifth session of the Assembly. It was further decided that the Chairman of the Sixth Committee would request that the letter be brought to the attention of the Chairman of the Fifth Committee and circulated as a document of the General Assembly.

III. Recommendations of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Administration of justice at the United Nations

The General Assembly,

Recalling its resolution 63/253 of 24 December 2008, by which it adopted the statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, as set out in annexes I and II to that resolution,

Recalling also article 7, paragraph 1, of the statute of the United Nations Dispute Tribunal and article 6, paragraph 1, of the statute of the United Nations Appeals Tribunal, by virtue of which, subject to the provisions of the respective statutes, each Tribunal shall establish its own rules of procedure, which shall be subject to approval by the General Assembly,

Recalling further its request that the Secretary-General submit, for approval, the rules of procedure of the Tribunals as soon as possible but no later than at its sixty-fourth session, and its decision that until then the Tribunals may apply the rules of procedure on a provisional basis,[1]

Having considered the report of the Secretary-General on approval of the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, containing the rules of procedure established by the respective Tribunals on 26 June 2009,[2]

Approves the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, as set out in annexes I and II to the present resolution.

Annex I
Rules of procedure of the United Nations Dispute Tribunal

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[1] See resolution 63/253, para. 29.

[2] A/64/229.

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Article 1
Election of the President

1. The Dispute Tribunal shall elect a President from among the full-time judges, for a renewable term of one year, to direct the work of the Tribunal and of the Registries, in accordance with the statute of the Dispute Tribunal.

2. Until otherwise decided by the Dispute Tribunal:

(a) The election shall occur at a plenary meeting every year and the President shall take up his or her duties upon election;

(b) The retiring President shall remain in office until his or her successor is elected;

(c) If the President should cease to be a judge of the Dispute Tribunal, should resign his or her office before the expiration of the normal term or is unable to act, an election shall be held for the purpose of appointing a successor for the unexpired portion of the term;

(d) Elections shall be by majority vote. Any judge who cannot attend for that purpose is entitled to vote by correspondence.

Article 2
Plenary meeting

1. The Dispute Tribunal shall normally hold a plenary meeting once a year to deal with questions affecting the administration or operation of the Dispute Tribunal.

2. Three judges shall constitute a quorum for plenary meetings of the Dispute Tribunal.

Article 3
Commencement of office

Unless otherwise decided by the General Assembly, the term of office of the judges of the Dispute Tribunal shall commence on the first day of July following their appointment by the General Assembly.

Article 4
Venue

The judges of the Dispute Tribunal shall exercise their functions in New York, Geneva and Nairobi respectively. However, the Dispute Tribunal may decide to hold sessions at other duty stations as required.

Article 5
Consideration by a panel

1. Except in cases falling under article 5.2 below, cases shall be considered by a single judge.

2. As provided for in its statute, the Dispute Tribunal may refer any case to a panel of three judges for a decision.

3. If a case is examined by a panel of three judges, the decision shall be taken by majority vote. Any concurring, separate or dissenting opinion shall be recorded in the judgement.

Article 6
Filing of cases

1. An application shall be filed at a Registry of the Dispute Tribunal, taking into account geographical proximity and any other relevant material considerations.

2. The Dispute Tribunal shall assign cases to the appropriate Registry. A party may apply for a change of venue.

Article 7
Time limits for filing applications

1. Applications shall be submitted to the Dispute Tribunal through the Registrar within:

(a) 90 calendar days of the receipt by the applicant of the management evaluation, as appropriate;

(b) 90 calendar days of the relevant deadline for the communication of a response to a management evaluation, namely, 30 calendar days for disputes arising at Headquarters and 45 calendar days for disputes arising at other offices; or

(c) 90 calendar days of the receipt by the applicant of the administrative decision in cases where a management evaluation of the contested decision is not required.

2. Any person making claims on behalf of an incapacitated or deceased staff member of the United Nations, including the Secretariat and separately administered funds and programmes, shall have one calendar year to submit an application.

3. Where the parties have sought mediation of their dispute, the application shall be receivable if filed within 90 calendar days after mediation has broken down.

4. Where an application is filed to enforce the implementation of an agreement reached through mediation, the application shall be receivable if filed within 90 calendar days of the last day for implementation as specified in the mediation agreement or, when the mediation agreement is silent on the matter, after 30 calendar days from the date of the signing of the agreement.

5. In exceptional cases, an applicant may submit a written request to the Dispute Tribunal seeking suspension, waiver or extension of the time limits referred to in article 7.1 above. Such request shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request. The request shall not exceed two pages in length.

6. In accordance with article 8.4 of the statute of the Dispute Tribunal, no application shall be receivable if filed more than three years after the applicant’s receipt of the contested administrative decision.

Article 8
Applications

1. An application may be submitted on an application form to be prescribed by the Registrar.

2. The application should include the following information:

(a) The applicant's full name, date of birth and nationality;

(b) The applicant's employment status (including United Nations index number and department, office and section) or relationship to the staff member if the applicant is relying on the staff member's rights;

(c) Name of the applicant's legal representative (with authorization attached);

(d) The address to which documents should be sent;

(e) When and where the contested decision, if any, was taken (with the contested decision attached);

(f) Action and remedies sought;

(g) Any supporting documentation (annexed and numbered, including, if translated, an indication thereof).

3. The signed original application form and the annexes thereto shall be submitted together. The documents may be transmitted electronically.

4. After ascertaining that the requirements of the present article have been complied with, the Registrar shall transmit a copy of the application to the respondent and to any other party a judge considers appropriate. If the formal requirements of the article are not fulfilled, the Registrar may require the applicant to comply with the requirements of the article within a specified period of time. Once the corrections have been properly made, the Registrar shall transmit a copy of the application to the respondent.

Article 9
Summary judgement

A party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law. The Dispute Tribunal may determine, on its own initiative, that summary judgement is appropriate.

Article 10
Reply

1. The respondent's reply shall be submitted within 30 calendar days of the date of receipt of the application by the respondent. The signed original reply and the annexes thereto shall be submitted together. The document may be transmitted electronically. A respondent who has not submitted a reply within the requisite period shall not be entitled to take part in the proceedings, except with the permission of the Dispute Tribunal.

2. After ascertaining that the requirements of the present article have been complied with, the Registrar shall transmit a copy of the response to the applicant and to any other party a judge considers appropriate. If the formal requirements of the article are not fulfilled, the Registrar may require the respondent to comply with the requirements of the article within a specified period of time. Once the corrections have been properly made, the Registrar shall transmit a copy of the reply to the applicant.

Article 11
Joining of a party

The Dispute Tribunal may at any time, either on the application of a party or on its own initiative, join another party if it appears to the Dispute Tribunal that that party has a legitimate interest in the outcome of the proceedings.

Article 12
Representation

1. A party may present his or her case to the Dispute Tribunal in person, or may designate counsel from the Office of Staff Legal Assistance or counsel authorized to practice law in a national jurisdiction.

2. A party may also be represented by a staff member or a former staff member of the United Nations or one of the specialized agencies.

Article 13
Suspension of action during a management evaluation

1. The Dispute Tribunal shall order a suspension of action on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears prima facie to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage.

2. The Registrar shall transmit the application to the respondent.

3. The Dispute Tribunal shall consider an application for interim measures within five working days of the service of the application on the respondent.

4. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

Article 14
Suspension of action during the proceedings

1. At any time during the proceedings, the Dispute Tribunal may order interim measures to provide temporary relief where the contested administrative decision appears prima facie to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.

2. The Registrar shall transmit the application to the respondent.

3. The Dispute Tribunal shall consider an application for interim measures within five working days of the service of the application on the respondent.

4. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

Article 15
Referral to mediation

1. At any time during the proceedings, including at the hearing, the Dispute Tribunal may propose to the parties that the case be referred for mediation and suspend the proceedings.

2. Where the judge proposes and the parties consent to mediation, the Dispute Tribunal shall send the case to the Mediation Division in the Office of the Ombudsman for consideration.

3. Where parties on their own initiative decide to seek mediation, they shall promptly inform the Registry in writing.

4. Upon referral of a case to the Mediation Division, the concerned Registry shall forward the case file to the Mediation Division. The proceedings will be suspended during mediation.

5. The time limit for mediation normally shall not exceed three months. However, after consultation with the parties, where the Mediation Division considers it appropriate, it will notify the Registry that the informal efforts will require additional time.

6. It shall be the responsibility of the Mediation Division to apprise the Dispute Tribunal of the outcome of the mediation in a timely manner.

7. All documents prepared for and oral statements made during any informal conflict-resolution process or mediation are absolutely privileged and confidential and shall never be disclosed to the Dispute Tribunal. No mention shall be made of any mediation efforts in documents or written pleadings submitted to the Dispute Tribunal or in any oral arguments made before the Dispute Tribunal.

Article 16
Hearing

1. The judge hearing a case may hold oral hearings.

2. A hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure.

3. The Registrar shall notify the parties of the date and time of a hearing in advance and confirm the names of witnesses or expert witnesses for the hearing of a particular case.

4. The parties or their duly designated representatives must be present at the hearing either in person or, where unavailable, by video link, telephone or other electronic means.

5. If the Dispute Tribunal requires the physical presence of a party or any other person at the hearing, the necessary costs associated with the travel and accommodation of the party or other person shall be borne by the Organization.

6. The oral proceedings shall be held in public unless the judge hearing the case decides, at his or her own initiative or at the request of one of the parties, that exceptional circumstances require that the oral proceedings be closed. If appropriate in the circumstances, the oral hearing may be held by video link, telephone or other electronic means.

Article 17
Oral evidence

1. The parties may call witnesses and experts to testify. The opposing party may cross-examine witnesses and experts. The Dispute Tribunal may examine witnesses and experts called by either party and may call any other witnesses or experts it deems necessary. The Dispute Tribunal may make an order requiring the presence of any person or the production of any document.

2. The Dispute Tribunal may, if it considers it appropriate in the interest of justice to do so, proceed to determine a case in the absence of a party.

3. Each witness shall make the following declaration before giving his or her statement: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth."

4. Each expert shall make the following declaration before giving his or her statement: "I solemnly declare upon my honour and conscience that my statement will be in accordance with my sincere belief."

5. Any party may object to the testimony of a given witness or expert, stating reasons for such objection. The Dispute Tribunal shall decide on the matter. Its decision shall be final.

6. The Dispute Tribunal shall decide whether the personal appearance of a witness or expert is required at oral proceedings and determine the appropriate means for satisfying the requirement for personal appearance. Evidence may be taken by video link, telephone or other electronic means.

Article 18
Evidence

1. The Dispute Tribunal shall determine the admissibility of any evidence.

2. The Dispute Tribunal may order the production of evidence for either party at any time and may require any person to disclose any document or provide any information that appears to the Dispute Tribunal to be necessary for a fair and expeditious disposal of the proceedings.

3. A party wishing to submit evidence that is in the possession of the opposing party or of any other entity may, in the initial application or at any stage of the proceedings, request the Dispute Tribunal to order the production of the evidence.

4. The Dispute Tribunal may, at the request of either party, impose measures to preserve the confidentiality of evidence, where warranted by security interests or other exceptional circumstances.

5. The Dispute Tribunal may exclude evidence which it considers irrelevant, frivolous or lacking in probative value. The Dispute Tribunal may also limit oral testimony as it deems appropriate.

Article 19
Case management

The Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

Article 20
Remand of case for the institution or correction of the required procedure

Prior to a determination of the merits of a case, should the Dispute Tribunal find that a relevant procedure prescribed in the Staff Regulations and Rules or applicable administrative issuances has not been observed, the Tribunal may, with the concurrence of the Secretary-General, remand the case for the institution or correction of the required procedure, which, in any case, should not take longer than three months. In such cases, the Dispute Tribunal may order the payment of compensation to the applicant for such loss as may have been caused by the procedural delay. The compensation is not to exceed the equivalent of three months' net base salary.

Article 21
Registry

1. The Dispute Tribunal shall be supported by Registries, which shall provide all necessary administrative and support services to it.

2. The Registries shall be established in New York, Geneva and Nairobi. Each Registry shall be headed by a Registrar appointed by the Secretary-General and such other staff as is necessary.

3. The Registrars shall discharge the duties set out in the rules of procedure and shall support the work of the Dispute Tribunal at the direction of the President or the judge at each location. In particular, the Registrars shall:

(a) Transmit all documents and make all notifications required in the rules of procedure or required by the President in connection with proceedings before the Dispute Tribunal;

(b) Establish for each case a master Registry file, which shall record all actions taken in connection with the preparation of the case for hearing, the dates thereof and the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;

(c) Perform any other duties that are required by the President or the judge for the efficient functioning of the Dispute Tribunal.

4. A Registrar, if unable to act, shall be replaced by an official appointed by the Secretary-General.

Article 22
Intervention by persons not party to the case

1. Any person for whom recourse to the Dispute Tribunal is available under article 2.4 of the statute may apply, on an application form to be prescribed by the

Registrar, to intervene in a case at any stage thereof on the grounds that he or she has a right that may be affected by the judgement to be issued by the Dispute Tribunal.

2. After ascertaining that the requirements of the present article have been complied with, the Registrar shall transmit a copy of the application for intervention to the applicant and to the respondent.

3. The Dispute Tribunal shall decide on the admissibility of the application for intervention. Such decision shall be final and shall be communicated to the intervener and the parties by the Registrar.

4. The Dispute Tribunal shall establish the modalities of the intervention. If admissible, the Dispute Tribunal shall decide which documents, if any, relating to the proceedings are to be transmitted to the intervener by the Registrar and shall fix a time by which any written submissions must be submitted by the intervener. It shall also decide whether the intervener shall be permitted to participate in any oral proceedings.

Article 23
Intervention procedure

An application for intervention shall be submitted on a prescribed form, the signed original of which shall be submitted to the Registrar. It may be transmitted electronically.

Article 24
Friend-of-the-court briefs

1. A staff association may submit a signed application to file a friend-of-the-court brief on a form to be prescribed by the Registrar, which may be transmitted electronically. The Registrar shall forward a copy of the application to the parties, who shall have three days to file any objections, which shall be submitted on a prescribed form.

2. The President or the judge hearing the case may grant the application if it considers that the filing of the brief would assist the Dispute Tribunal in its deliberations. The decision will be communicated to the applicant and the parties by the Registrar.

Article 25
Judgements

1. Judgements shall be issued in writing and shall state the reasons, facts and law on which they are based.

2. When a case is decided by a panel of three judges, a judge may append a separate, dissenting or concurring opinion.

3. Judgements shall be drawn up in any official language of the United Nations, two signed originals of which shall be deposited in the archives of the United Nations.

4. The Registrars shall transmit a copy of the judgement to each party. An individual applicant or respondent shall receive a copy of the judgement in the

language in which the original application was submitted, unless he or she requests a copy in another official language of the United Nations.

5. The Registrars shall send to all judges of the Dispute Tribunal copies of all the judgements of the Dispute Tribunal.

Article 26
Publication of judgements

1. The Registrars shall arrange for publication of the judgements of the Dispute Tribunal on the website of the Dispute Tribunal after they are delivered.

2. The judgements of the Dispute Tribunal shall protect personal data and shall be available at the Registry of the Dispute Tribunal.

Article 27
Conflict of interest

1. The term "conflict of interest" means any factor that may impair or reasonably give the appearance of impairing the ability of a judge to independently and impartially adjudicate a case assigned to him or her.

2. A conflict of interest arises where a case assigned to a judge involves any of the following:

(a) A person with whom the judge has a personal, familiar or professional relationship;

(b) A matter in which the judge has previously served in another capacity, including as an adviser, counsel, expert or witness;

(c) Any other circumstances that would make it appear to a reasonable and impartial observer that the judge's participation in the adjudication of the matter would be inappropriate.

Article 28
Recusal

1. A judge of the Dispute Tribunal who has or appears to have a conflict of interest as defined in article 27 of the rules of procedure shall recuse himself or herself from the case and shall so inform the President.

2. A party may make a reasoned request for the recusal of a judge on the grounds of a conflict of interest to the President of the Dispute Tribunal, who, after seeking comments from the judge, shall decide on the request and shall inform the party of the decision in writing. A request for recusal of the President shall be referred to a three-judge panel for decision.

3. The Registrar shall communicate the decision to the parties concerned.

Article 29
Revision of judgements

1. Either party may apply to the Dispute Tribunal for a revision of a judgement on the basis of the discovery of a decisive fact that was, at the time the judgement

was rendered, unknown to the Dispute Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence.

2. An application for revision must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

3. The application for revision will be sent to the other party, who has 30 days after receipt to submit comments to the Registrar.

Article 30
Interpretation of judgements

Either party may apply to the Dispute Tribunal for an interpretation of the meaning or scope of a judgement, provided that it is not under consideration by the Appeals Tribunal. The application for interpretation shall be sent to the other party, who shall have 30 days to submit comments on the application. The Dispute Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

Article 31
Correction of judgements

Clerical or arithmetical mistakes, or errors arising from any accidental slip or omission, may at any time be corrected by the Dispute Tribunal, either on its own initiative or on the application by any of the parties on a prescribed form.

Article 32
Execution of judgements

1. Judgements of the Dispute Tribunal shall be binding on the parties, but are subject to appeal in accordance with the statute of the Appeals Tribunal. In the absence of such appeal, it shall be executable following the expiry of the time provided for appeal in the statute of the Appeals Tribunal.

2. Once a judgement is executable under article 11.3 of the statute of the Dispute Tribunal, either party may apply to the Dispute Tribunal for an order for execution of the judgement if the judgement requires execution within a certain period of time and such execution has not been carried out.

Article 33
Titles

The titles of the articles in the rules of procedure are for reference purposes only and do not constitute an interpretation of the article concerned.

Article 34
Calculation of time limits

The time limits prescribed in the rules of procedure:

(a) Refer to calendar days and shall not include the day of the event from which the period runs;

(b) Shall include the next working day of the Registry when the last day of the period is not a working day;

(c) Shall be deemed to have been met if the documents in question were dispatched by reasonable means on the last day of the period.

Article 35
Waiver of time limits

Subject to article 8.3 of the statute of the Dispute Tribunal, the President, or the judge or panel hearing a case, may shorten or extend a time limit fixed by the rules of procedure or waive any rule when the interests of justice so require.

Article 36
Procedural matters not covered in the rules of procedure

1. All matters that are not expressly provided for in the rules of procedure shall be dealt with by decision of the Dispute Tribunal on the particular case, by virtue of the powers conferred on it by article 7 of its statute.

2. The Dispute Tribunal may issue practice directions related to the implementation of the rules of procedure.

Article 37
Amendment of the rules of procedure

1. The Dispute Tribunal in plenary meeting may adopt amendments to the rules of procedure, which shall be submitted to the General Assembly for approval.

2. The amendments shall operate provisionally until approved by the General Assembly or until they are amended or withdrawn by the Dispute Tribunal in accordance with a decision of the General Assembly.

3. The President, after consultation with the judges of the Dispute Tribunal, may instruct the Registrars to revise any forms from time to time in the light of experience, provided that such modifications are consistent with the rules of procedure.

Article 38
Entry into force

1. The rules of procedure shall enter into force on the first day of the month following their approval by the General Assembly.

2. The rules of procedure shall operate provisionally from the date of their adoption by the Dispute Tribunal until their entry into force.

Annex II
Rules of procedure of the United Nations Appeals Tribunal

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Article 1
Election of the President and Vice-Presidents

1. The Appeals Tribunal shall elect a President, a First Vice-President and a Second Vice-President.

2. Until otherwise decided by the Appeals Tribunal:

(a) The election shall occur at a plenary meeting during the Appeals Tribunal's last session each year. The President and Vice-Presidents shall hold office for one year and shall take up their duties upon election;

(b) The retiring President and Vice-Presidents shall remain in office until their successors are elected;

(c) If a President or a Vice-President should cease to be a judge of the Appeals Tribunal or should resign his or her office before the expiration of the normal term, an election shall be held for the purpose of appointing a successor for the unexpired portion of the term;

(d) Elections shall be by majority vote. Any judge who cannot attend for that purpose is entitled to vote by correspondence.

Article 2
Functions of the President and Vice-Presidents

1. The President shall direct the work of the Appeals Tribunal and of the Registry, shall represent the Appeals Tribunal in all administrative matters and shall preside at the meetings of the Appeals Tribunal.

2. If the President is unable to act, he or she shall designate one of the Vice-Presidents to act as President. In the absence of any such designation by the President, the First Vice-President or, in the event of the latter's incapacity, the Second Vice-President shall act as President.

3. The President of the Appeals Tribunal may, within seven calendar days of a written request by the President of the Dispute Tribunal, authorize the referral of a case to a panel of three judges of the Dispute Tribunal, when necessary, by reason of the particular complexity or importance of the case.

Article 3
Composition of the Appeals Tribunal for its sessions

1. Unless otherwise decided by the General Assembly, the term of office of the judges of the Appeals Tribunal shall commence on the first day of July following their appointment by the General Assembly.

2. No member of the Appeals Tribunal can be dismissed by the General Assembly unless the other members unanimously agree that he or she is unsuited for further service.

Article 4
Panels

1. The President shall normally designate a panel of three judges to hear a case or a group of cases.

2. When the President or any two judges sitting on a particular case consider that the case so warrants, the case shall be heard by the whole Appeals Tribunal.

Article 5
Ordinary and extraordinary sessions

1. The Appeals Tribunal shall exercise its functions in New York and shall hold ordinary sessions for the purpose of hearing cases. The Appeals Tribunal shall normally hold two ordinary sessions per calendar year and may decide to hold sessions in Geneva or Nairobi, as required by its caseload.

2. Extraordinary sessions for the consideration of cases may be convened by the President when, in his or her opinion, the number or urgency of the cases requires such sessions. Notice of an extraordinary session shall be given to the members of the Tribunal at least 30 days before the opening date of the session.

3. The President shall decide the date and venue of ordinary and extraordinary sessions after consultation with the Registrar.

Article 6
Plenary meetings

1. The Appeals Tribunal shall normally hold four plenary meetings a year, at the beginning and at the end of each of the regular sessions, to deal with questions affecting the administration or operation of the Appeals Tribunal. It shall elect its officers at a plenary meeting, normally the last one in the calendar year.

2. Four judges shall constitute a quorum for plenary meetings of the Appeals Tribunal.

Article 7
Time limits for filing appeals

1. Appeals instituting proceedings shall be submitted to the Appeals Tribunal through the Registrar within:

(a) 45 calendar days of the receipt by a party appealing a judgement of the Dispute Tribunal;

(b) 90 calendar days of the date of receipt by a party appealing a decision of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board; or

(c) A time limit fixed by the Appeals Tribunal under article 7.2 of the rules of procedure.

2. In exceptional cases, an appellant may submit a written request to the Appeals Tribunal seeking suspension, waiver or extension of the time limits referred to in article 7.1. The written request shall succinctly set out the exceptional reasons that, in the view of the appellant, justify the request. The written request shall not exceed two pages.

3. In accordance with article 7.4 of the statute of the Appeals Tribunal, no application shall be receivable if filed more than one year after the judgement of the Dispute Tribunal.

Article 8
Appeals

1. Appeals shall be submitted on a prescribed form.

2. The appeal form shall be accompanied by:

(a) A brief that explains the legal basis of any of the five grounds for appeal set out in article 2.1 of the statute of the Appeals Tribunal that is relied upon or, in the case of an appeal against a decision of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board, a brief containing pleas and an explanatory statement. The brief shall not exceed 15 pages;

(b) A copy of each document referred to by the appellant in the appeal, accompanied by a translation into one of the official languages of the United Nations if the original language is not one of the official languages; such documents shall be identified by the word "Annex" at the top of the first page of each document followed by sequential arabic numerals.

3. The signed original appeal form and the annexes thereto shall be submitted together to the Registrar. The documents may be transmitted electronically.

4. After ascertaining that the appeal complies with the requirements of the present article, the Registrar shall transmit a copy of the appeal to the respondent. If the formal requirements of the article are not fulfilled, the Registrar may require the appellant to conform the appeal to the requirements of the article within a specified time. Once the corrections have been properly made, the Registrar shall transmit a copy of the appeal to the respondent.

5. The President may direct the Registrar to inform an appellant that his or her appeal is not receivable because it is not an appeal against either a decision of the Dispute Tribunal or of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board, as the case may be.

6. The filing of an appeal shall suspend the execution of the judgement contested.

Article 9
Answers

1. The respondent's answer shall be submitted on a prescribed form.

2. The answer form shall be accompanied by:

(a) A brief, which shall not exceed 15 pages, setting out legal arguments in support of the answer;

(b) A copy of each document referred to by the respondent in the answer, accompanied by a translation into one of the official languages of the United Nations if the original language is not one of the official languages; such documents shall be identified by the word "Annex" at the top of the first page of each document and an arabic numeral which follows in sequence the numbering of the annexes to the appeal form referred to in article 8.2 (b).

3. The signed original answer form and the annexes thereto shall be submitted together to the Registrar within 45 days of the date on which the respondent received the appeal transmitted by the Registrar. The documents may be transmitted electronically.

4. Within 15 days of notice of the appeal, a party answering the appeal may serve a notice of cross-appeal with the Appeals Tribunal stating the relief sought and the grounds of the cross-appeal. The cross-appeal may not add new claims.

5. After ascertaining that the answer complies with the requirements of the present article, the Registrar shall transmit a copy of the answer to the appellant. If the formal requirements of the article are not fulfilled, the Registrar may require the respondent to conform the answer to the requirements of the present article within a specified time. Once the corrections have been properly made, the Registrar shall transmit a copy of the answer to the appellant. If the corrections are not submitted within the established time limit, including any extension granted by the Appeals Tribunal, the preliminary proceedings will be considered closed and the Appeals Tribunal will adjudicate the matter on the basis of the appeal lodged by the appellant.

Article 10
Additional documentary evidence, including written testimony

1. A party may seek to submit to the Appeals Tribunal, with an appeal or an answer, documentary evidence, including written testimony, in addition to that contained in the written record. In exceptional circumstances and where the Appeals Tribunal determines that the facts are likely to be established with such additional documentary evidence, it may receive the additional evidence from a party. On its own volition, the Tribunal may order the production of evidence if it is in the interest of justice and the efficient and expeditious resolution of the case, provided that the Appeals Tribunal shall not receive additional written evidence if it was known to the party seeking to submit the evidence and should have been presented to the Dispute Tribunal.

2. In all other cases where additional findings of fact are needed, the Appeals Tribunal may remand the case to the Dispute Tribunal for further fact-finding. Where the Appeals Tribunal remands a case to the Dispute Tribunal, it may order that the case be considered by a different judge of the Dispute Tribunal.

Article 11
Docket of cases

1. When the President considers the documentation of a case to be sufficiently complete, he or she shall instruct the Registrar to place the case on the docket of cases ready for adjudication by the Appeals Tribunal. The docket for the session shall be communicated to the parties.

2. As soon as the date of opening of the session at which a case listed for hearing has been fixed, the Registrar shall notify the parties thereof.

3. Any request for the adjournment of a case that is listed on the docket shall be decided by the President or, when the Appeals Tribunal is in session, by the judges hearing the case.

Article 12
Working languages

The working languages of the Appeals Tribunal shall be English and French.

Article 13
Representation

1. A party may present his or her case before the Appeals Tribunal in person or may designate counsel from the Office of Staff Legal Assistance or counsel authorized to practice law in a national jurisdiction.

2. A party may also be represented by a staff member or a former staff member of the United Nations or one of the specialized agencies.

Article 14
Waiver of rules concerning written pleadings

Subject to article 7.4 of the statute of the Appeals Tribunal and provided that the waiver does not affect the substance of the case before the Appeals Tribunal, the President may waive the requirements of any article of the rules of procedure dealing with written proceedings.

Article 15
Exclusion of all documents and statements made during mediation

1. Except in cases concerning enforcement of a settlement agreement, all documents prepared for and oral statements made during any informal conflict-resolution process or mediation are absolutely privileged and confidential and shall never be disclosed to the Appeals Tribunal. No mention shall be made of any mediation efforts in documents or written pleadings submitted to the Appeals Tribunal or in any oral arguments made before the Appeals Tribunal.

2. Subject to the provisions of paragraph 1 above, if a document relating to the mediation process is submitted to the Appeals Tribunal, the Registrar shall return that document to the submitting party. If such information is part of the brief or any other written pleadings submitted to the Appeals Tribunal by a party, all pleadings shall be returned to that party for resubmission to the Appeals Tribunal in compliance with paragraph 1 above.

3. Subject to article 7.4 of the statute of the Appeals Tribunal, the President may fix one non-renewable time limit not exceeding five days for the resubmission of the written pleadings if the initial period for the submission of such pleadings has expired.

Article 16
Intervention by persons not party to the case

1. Any person for whom recourse to the Appeals Tribunal is available under article 6.2 (f) of the statute may apply to intervene in a case at any stage thereof on the grounds that his or her rights may have been affected by the judgement of the Dispute Tribunal and might, therefore, be affected by the judgement of the Appeals Tribunal.

2. After ascertaining that the requirements of the present article have been complied with, the Registrar shall transmit a copy of the application for intervention to the appellant and to the respondent.

3. The President or, when the Tribunal is in session, the presiding judge of the panel of the Appeals Tribunal hearing the case shall rule on the admissibility of

every application for intervention. Such decision shall be final and shall be communicated to the intervener and the parties by the Registrar.

4. An application for intervention shall be submitted on a prescribed form, the signed original of which shall be submitted to the Registrar. It may be transmitted electronically.

Article 17
Friend-of-the-court briefs

1. A person or organization for whom recourse to the Appeals Tribunal is available and staff associations may submit a signed application to file a friend-of-the-court brief, which may be transmitted electronically. The Registrar shall forward a copy of the application to the parties, who shall have three days to file any objections on a prescribed form.

2. The President or the panel hearing the case may grant the application if it considers that the filing of the brief would assist the Appeals Tribunal in its deliberations. The decision will be communicated to the applicant and the parties by the Registrar.

Article 18
Oral proceedings

1. The judges hearing a case may hold oral hearings on the written application of a party or on their own initiative if such hearings would assist in the expeditious and fair disposal of the case.

2. The oral proceedings shall be held in public unless the judges hearing the case decide, on their own initiative or at the request of one of the parties, that exceptional circumstances require that the oral proceedings be closed. If appropriate in the circumstances, the oral hearing may be held by electronic means.

Article 19
Adoption and issuance of judgements

1. Judgements shall be adopted by majority vote. All deliberations shall be kept confidential.

2. Judgements shall be issued in writing and shall state the reasons, facts and law on which they are based.

3. A judge may append a separate, dissenting or concurring opinion.

4. Judgements shall be drawn up in any official language of the United Nations, two signed originals of which shall be deposited in the archives of the United Nations.

5. The Registrar shall transmit a copy of the judgement to each party. An individual appellant or respondent shall receive a copy of the judgement in the language of the appeal or answer, as the case may be, unless a copy is requested in another official language of the United Nations.

6. The Registrar shall send to all judges of the Appeals Tribunal copies of all the decisions of the Appeals Tribunal.

Article 20
Publication of judgements

1. The Registrar shall arrange for publication of the judgements of the Appeals Tribunal on the website of the Appeals Tribunal after they are delivered.

2. The published judgements will normally include the names of the parties.

Article 21
Registry

1. The Appeals Tribunal shall be supported by a Registry, which shall provide all necessary administrative and support services to it.

2. The Registry shall be established in New York and shall be headed by a Registrar appointed by the Secretary-General and such staff as is necessary.

3. The Registrar shall discharge the duties set out in the rules of procedure and shall support the work of the Appeals Tribunal at the direction of the President. In particular, the Registrar shall:

(a) Transmit all documents and make all notifications required in the rules of procedure or required by the President or a panel hearing a case in connection with proceedings before the Appeals Tribunal;

(b) Establish for each case a master Registry file, which shall record all actions taken in connection with the preparation of the case for hearing, the dates thereof and the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;

(c) Perform any other duties that are required by the President for the efficient functioning of the Appeals Tribunal and the efficient disposal of its caseload.

4. The Registrar, if unable to act, shall be replaced by an official appointed by the Secretary-General.

Article 22
Conflict of interest

1. The term “conflict of interest” means any factor that may impair or reasonably give the appearance of impairing the ability of a judge to independently and impartially adjudicate a case assigned to him or her.

2. A conflict of interest arises where a case assigned to a judge involves any of the following:

(a) A person with whom the judge has a personal, familiar or professional relationship;

(b) A matter in which the judge has previously served in another capacity, including as an adviser, counsel, expert or witness;

(c) Any other circumstances that would make it appear to a reasonable and impartial observer that the judge’s participation in the adjudication of the matter would be inappropriate.

Article 23
Recusal

1. A judge of the Appeals Tribunal who has or appears to have a conflict of interest as defined in article 22 of the rules of procedure shall recuse himself or herself from the case and shall so inform the President.

2. A party may make a reasoned request for the recusal of a judge on the grounds of conflict of interest to the President or the Appeals Tribunal, which, after seeking comments from the judge, shall decide on the request and shall inform the party of the decision in writing.

3. A decision by a judge to recuse himself or herself, or a decision by the President or the Appeals Tribunal to recuse a judge, shall be communicated to the parties concerned by the Registrar.

Article 24
Revision of Judgements

Either party may apply to the Appeals Tribunal, on a prescribed form, for a revision of a judgement on the basis of the discovery of a decisive fact that was, at the time the judgement was rendered, unknown to the Appeals Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. The application for revision will be sent to the other party, who has 30 days to submit comments to the Registrar on a prescribed form. The application for revision must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

Article 25
Interpretation of judgements

Either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of a judgement on a prescribed form. The application for interpretation shall be sent to the other party, who shall have 30 days to submit comments on the application on a prescribed form. The Appeals Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

Article 26
Correction of Judgements

Clerical or arithmetical mistakes, or errors arising from any accidental slip or omission, may at any time be corrected by the Appeals Tribunal, either on its own initiative or on the application by any of the parties on a prescribed form.

Article 27
Execution of judgements

Where a judgement requires execution within a certain period of time and such execution has not been carried out, either party may apply to the Appeals Tribunal for an order for execution of the judgement.

Article 28
Titles

The titles to the articles in the rules of procedure are for reference purposes only and do not constitute an interpretation of the article concerned.

Article 29
Calculation of time limits

The time limits prescribed in the rules of procedure:

(a) Refer to calendar days, but shall not include the day of the event from which the period runs;

(b) Shall include the next working day of the Registry when the last day of the period is not a working day;

(c) Shall be deemed to have been met if the documents in question were dispatched by reasonable means on the last day of the period.

Article 30
Waiver of time limits

Subject to article 7.4 of the statute of the Appeals Tribunal, the President or the panel hearing a case may shorten or extend a time limit fixed by the rules of procedure or waive any rule when the interests of justice so require.

Article 31
Procedural matters not covered in the rules of procedure

1. All matters that are not expressly provided for in the rules of procedure shall be dealt with by decision of the Appeals Tribunal on the particular case, by virtue of the powers conferred on it by article 6 of its statute.

2. The Appeals Tribunal may issue practice directions related to the implementation of the rules of procedure.

Article 32
Amendment of the rules of procedure

1. The Appeals Tribunal in plenary meeting may adopt amendments to the rules of procedure, which shall be submitted to the General Assembly for approval.

2. The amendments shall operate provisionally until approved by the General Assembly.

3. The President, after consultation with the judges of the Appeals Tribunal, may instruct the Registrar to revise any forms from time to time in the light of experience, provided that such modifications are consistent with the rules of procedure.

Article 33
Entry into force

1. The rules of procedure shall enter into force on the first day of the month following their approval by the General Assembly.

2. The rules of procedure shall operate provisionally from the date of their adoption by the Appeals Tribunal until their entry into force.

12. The Sixth Committee also recommends to the General Assembly the adoption of the following draft decision:

Administration of justice at the United Nations

The General Assembly decides that the consideration of the outstanding legal aspects of the item entitled "Administration of justice at the United Nations" shall be continued during its sixty-fifth session in the framework of a working group of the Sixth Committee, taking into account the results of the deliberations of the Fifth and Sixth Committees on the item, previous decisions of the Assembly and any further decisions that the Assembly may take during its sixty-fourth session. The Assembly also decides to include in the provisional agenda of its sixty-fifth session the item entitled "Administration of justice at the United Nations".