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Chair: Mr. Salinas Burgos..... (Chile)

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The meeting was called to order at 3.10 p.m.

Agenda item 143: Administration of justice at the United Nations (A/66/86 and Add.1, A/66/158, A/66/224, A/66/275 and A/66/399)

1. **Ms. Quezada** (Chile), speaking on behalf of the Rio Group, said that the Group was very pleased with the progress achieved since the adoption of the new system of administration of justice in eliminating the backlog and handling new cases. Moreover, the new system had had a positive impact on labour relations. The Group had consistently supported measures to protect the basic rights of United Nations personnel in accordance with internationally agreed standards and continued to support all measures that could help the United Nations to become the best employer and attract and retain the best employees.

2. The Group would welcome clarifications with regard to the code of conduct for judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal proposed by the International Justice Council (A/65/86), with a view to its speedy adoption. The Group was prepared to discuss the grounds of misconduct or incapacity for the removal of judges, as well as the proposed amendments to the rules of procedure of the Dispute Tribunal and the Appeals Tribunal contained in the report of the Secretary-General (A/66/86 and Add.1) and the problems described in chapter IV of that report.

3. The Rio Group welcomed the proposal for recourse mechanisms for non-staff personnel contained in annex II of the report of the Secretary-General (A/66/275); however, the relation between access for non-staff to the formal system and their access to the informal system should be clarified. The Group also supported the work of the Office of Staff Legal Assistance in providing staff members with legal counsel and guidance. Further proposals for a staff-funded mechanism should be explored to complement the work of the Office; however, the schemes should be complementary, voluntary and fully take into account the views of relevant stakeholders.

4. Although the Dispute Tribunal and the Appeals Tribunal had been instrumental in promoting justice at the United Nations, the Rio Group was concerned that staff relied too heavily on the formal system of justice. It would therefore like to see more cases resolved through the informal dispute resolution process, which

was a crucial element of the internal system of administration of justice. In that regard, the Group welcomed the referral of 13 cases from the Dispute Tribunal to the Mediation Division and was pleased that approximately 36 per cent of cases received and closed by the Management Evaluation Unit in 2010 had been settled through informal resolution efforts. The Group reiterated the request made to the Secretary-General to ensure that the structure of the Office of the Ombudsman and Mediation Services reflected the responsibility of the Ombudsman for the oversight of the entire office.

5. In view of the important matters to be considered by the Committee, it should consider reconvening the Ad Hoc Committee on the Administration of Justice at the United Nations. Lastly, the Sixth and Fifth Committees should continue to cooperate closely to ensure an appropriate division of labour and avoid encroachment of mandates.

6. **Mr. Morrill** (Canada), speaking on behalf of Canada, Australia and New Zealand (CANZ), said that the CANZ countries had been long-standing advocates for a fair and effective system of internal administration of justice at the United Nations. They were pleased so far with the performance of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal as well as the new system of administration of justice at the United Nations.

7. The Committee should study the range of issues identified by the Secretary-General that required further input from Member States. The CANZ countries would continue working to ensure that the new system of administration of justice was fair, effective and efficient.

8. **Mr. Stuerchler** (Switzerland) said that his delegation was pleased with the progress achieved with the new system of administration of justice in the United Nations, but there were decisions that could not be postponed if the new system was not to be plagued by the deficiencies that it had been designed to address. First, as to the scope of the system, while his delegation was pleased that staff members had access to an independent body that addressed their grievances adequately and cost-effectively, it was regrettable that such access was not available to non-staff personnel. Second, with regard to amendments to the statutes of the Dispute and Appeals Tribunals, it should be stressed that no jurisdictional lacunae should arise

from any amendment. Third, with regard to reporting to the Committee on the agenda item, his delegation looked forward to a further role for the Internal Justice Council; in addition, the Committee might want to consider direct communication between the Tribunals and itself.

9. **Ms. Rodríguez-Pineda** (Guatemala) said that the new internal administration of justice system seemed to be moving in the right direction. Her delegation recognized the importance of adopting a code of conduct for judges, but would appreciate clarification about the binding nature of the proposed code, the use of some of the terminology and the need for certain provisions which it considered when beyond what was needed in a code of conduct. In examining the mechanisms for the removal of judges, the expression “misconduct or incapacity” would need to be clearly defined. Her delegation also sought further information about the mention of “several complaints against judges” referred to in the report of the Internal Justice Council (A/66/158), although it agreed with the Council’s view that there was no entity with a clear mandate to consider such complaints. Her delegation was willing to consider the idea of a complaint panel but did not think that the Council should perform that function and preferred to consider a possible role for the judges themselves and the Office of Internal Oversight Services in that regard. However, the Council’s efforts as a channel of information for other key actors in the system were appreciated and helped avoid a proliferation of documents.

10. Her delegation defended the value of the management evaluation system, but thought that the proposal to extend the deadlines for management evaluations was problematic, because adherence to pre-established and strict time frames was a vital element of the informal dispute resolution system.

11. Amendments to the rules of procedure of the Dispute and Appeals Tribunals should be considered only if they were necessary and were not in any way intended to indirectly amend the existing statutes. Her delegation was confident that the judges themselves knew best what they needed to perform their functions, but it did support the suggestion about prior consultation on such amendments.

12. With regard to proposed amendments to the statutes, some of the issues that had been submitted to the Committee for consideration might be resolved

through a resolution of the General Assembly or reference to past resolutions rather than through an amendment of the statutes. Her delegation fully supported the principle of independence of judges, but that independence must be exercised within the legal framework established by the General Assembly.

13. **Ms. Taratukhina** (Russian Federation) said that her delegation was pleased with the Organization’s new system of internal administration of justice and considered the creation of an effective dispute resolution mechanism to have been its chief accomplishment. Judging from the Secretary-General’s report (A/66/275), the United Nations Dispute and Appeals Tribunals had been successful in their work, the backlog of cases was being cleared and staff members had better access to legal assistance. In order to avoid overwhelming the new system, it was important to use the management evaluation mechanism and non-judicial dispute resolution methods to resolve disputes at an early stage to avoid costly legal proceedings. The steps taken by the Office of the Ombudsman were welcome in that regard. However, there was clearly a need for continued improvement of the system based on regular evaluations of its operations.

14. The issue of effective remedies available to non-staff personnel called for special attention. Her Government was continuing to examine the Secretary-General’s proposed use of fast track procedures under the Arbitration Rules of the United Nations Commission on International Trade Law for certain categories of non-staff personnel, including consultants and individual contractors. It was critical to ensure that greater legal protection was available to those who personally served the United Nations but did not have access to the new dispute resolution system. It remained unclear whether experts on mission possessed adequate remedies.

15. In addressing these issues, Sixth Committee members should focus on the legal rather than the budgetary aspects.

16. **Mr. Ahamed** (India) said that informal conflict resolution was a crucial element of the system of administration of justice. His delegation was pleased to note that decentralization of the informal conflict resolution services had provided the Office of the Ombudsman and Mediation Services with better access to its constituencies. Unfortunately, budgetary constraints

and other challenges had made it difficult for regional ombudsmen to travel within their respective areas to provide in-person intervention for the resolution of conflicts and for the Office to deploy rapid-response ombudsmen and mediation teams as needed. To overcome those challenges, the request for additional resources for the Office should be treated favourably.

17. According to the report of the Internal Justice Council (A/66/158), the new justice system was working well as a result of the dedication of the judges, registrars, lawyers and staff. His delegation considered that the recommendations in the report deserved positive attention, as did the recommendations in the report of the Secretary-General (A/66/86) concerning amendments to the rules of procedure of the Dispute and Appeals Tribunals.

18. His delegation supported all efforts to strengthen the new system of administration of justice at the United Nations so that no members of the United Nations workforce would be left without recourse.

19. **Mr. Hill** (United States of America) said that the adoption of General Assembly resolution 63/253 had been a landmark achievement for the administration of justice at the United Nations and a milestone in the reform of the Organization. The United Nations Dispute Tribunal and the United Nations Appeals Tribunal established under that resolution were already having a significant positive impact on the transparency, fairness, efficiency and accountability of the United Nations personnel system. His delegation was impressed by the professionalism and productivity of the new system.

20. The report of the Secretary-General (A/66/275) raised a number of important issues concerning the work of the two Tribunals, including an amendment of their statutes. All of those issues merited careful consideration, as did the draft code of conduct proposed by the Internal Justice Council; there would be a need for the Committee's Working Group to set priorities. His delegation welcomed the Secretary-General's proposal for a recourse mechanism for non-staff personnel.

The meeting rose at 4.05 p.m.