

Statement of the Chairman of the Advisory Committee on Administrative and Budgetary Questions

5 November 2012

Administration of Justice at the United Nations and activities of the Office of the United Nations Ombudsman and Mediation Services

(ACABQ report A/67/547)

Mr. Chairman,

I am pleased to introduce the Advisory Committee's report (A/67/547) on the reports of the Secretary-General on the administration of justice at the United Nations (A/67/265), the activities of the Office of the United Nations Ombudsman and Mediation Services (A/66/224) and the proposed amendments to the rules of procedure of the United Nations Disputes Tribunal and Appeals Tribunal (A/67/349).

Looking at the system overall, the Advisory Committee notes that, after three full years of operation, the system of administration of justice is no longer in a start-up phase. While acknowledging that the system continues to evolve, the Committee is concerned that there are a growing number of cases proceeding to formal adjudication. Indeed, for the 2011 calendar year the caseload continued to grow across most elements of the system – with notable increases in the number of cases handled by the Management Evaluation Unit and the United Nations Disputes Tribunal. Moreover, the rate at which new cases were received outpaced the rate of case disposition or closure, with the exception of the UN Appeals Tribunal.

The Committee is convinced therefore that an interim independent assessment of all functioning aspects of the system is now required in order to take stock of the system's general direction and to ensure that it is meeting the governing principles of a system which is "independent, transparent, professionalized, adequately resourced and decentralized", as laid down in General Assembly's resolution 61/261. The outcome of this assessment should inform future decisions regarding the possible alignment of resources.

Mr. Chairman,

The Secretary-General has made requests for additional resources in his current report, mostly to handle the continued growing caseload at the various stages of the system. He has also provided substantial detail concerning different elements of the system as requested in General Assembly's resolution 66/237.

With regard to the requests for resources, and pending the outcome of the interim independent assessment recommended by the Advisory Committee, the Committee has no objection to the additional P-3 Legal Officer position for the MEU to be funded through the peacekeeping support account through 30 June 2013; the request to extend the UNDT's three ad litem judges through 31 December 2013, along with the staffing complement in support of

these judges; and the continuation of the P-3 Legal Officer position located in Nairobi for the Office of Staff Legal Assistance, also to be funded from the peacekeeping support account for an additional six month period.

At the same time, the Committee does not support institutionalizing the holding of two plenary meetings annually for the Disputes Tribunal or three annual sessions for the Appeals Tribunal through the proposed amendments to the rules of procedure. Rather, in the case of the UNDT, the Committee recommends continuation of the current practice of holding the plenary meetings as needed, taking into consideration caseload demands. For the UNAT, until such time as trends in caseload have stabilized, the Committee recalls its previous recommendation that all efforts should be made to reprioritize resources in order to increase productivity.

Mr. Chairman, turning to some of the policy matters addressed by the Secretary-General in response to Assembly's resolution 66/237, the Advisory Committee welcomes all efforts to disseminate lessons arising from the judgements of the Tribunals and to ensure better managerial practices by addressing the underlying factors that give rise to disputes in the workplace. The Committee also recommends that a more comprehensive cost-benefit analysis be completed to determine the viability of the proposed expedited arbitration procedures for consultants and individual contractors. Moreover, the Committee continues to be against any extension of access to the system of administration of justice by non-staff personnel.

With respect to OSLA's mandate, the Committee recalls its previous reservations over the fact that OSLA continues to provide both advice and legal representation to staff members. The Committee concurs with the view provided during its review of this matter that it is ultimately for the General Assembly to decide whether OSLA's expenditures indeed constitute expenses of the Organization under Article 17 of the Charter. The Committee furthermore recommends that the Secretary-General urge staff to consider again all options for establishing a mandatory funding mechanism to cover the costs of representing staff in cases coming before the two tribunals. It also recommends that the Secretary-General should present a single preferred proposal at the sixty-eighth session of the General Assembly.

Mr. Chairman,

Turning briefly to the activities of the Office of the UN Ombudsman and Mediation Services, the Advisory Committee reiterates its view that the informal process plays an important role in resolving disputes and avoiding unnecessary and costly recourse to litigation. It welcomes the actions taken to encourage informal resolution of disputes, along with the intention of the Office to assist in effecting behavioural changes on the part of management and staff in this regard. The Committee notes once again, however, that the revised terms of reference for the Office have yet to be formally promulgated and it stresses that this process should be completed without any further delay.

Thank you Mr. Chairman