



**STATEMENT ON BEHALF OF THE GROUP OF 77 AND CHINA BY
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REPRESENTATIVE OF ANTIGUA AND BARBUDA TO THE UNITED NATIONS,
ON AGENDA ITEM 129, ADMINISTRATION OF JUSTICE AT THE UNITED
NATIONS, AT THE MAIN PART OF THE SIXTY-THIRD SESSION OF THE
FIFTH COMMITTEE OF THE GENERAL ASSEMBLY (New York, 20 November
2008)**

Mr. Chairman,

1. I have the honour to make this statement on behalf of Group of 77 and China on this important agenda item.
2. The Group wishes to thank the Under-Secretary-General for Management, Mrs. Agela Kane, for introducing the report of the Secretary-General on administration of justice (A/63/314). We also wish to thank the Ombudsman, Mr. Johnston Barkat, for introducing the report of the Secretary-General on the activities of the Office of the Ombudsman (A/63/283) and the Chairman of the ACABQ, Mrs. Susan Mclurg for introduction of the Committee's report (A/63/545) under this agenda item.
- 3 The Group of 77 and China attaches great importance to the issue of Administration of Justice, which is an integral part of an effective human resources management system and cannot be separated from any process of reform of the system. This issue - and in particular the question of the deficiencies in the current system and the back log of case - have been on this Committee's agenda for many years. The problems relating to lack of accountability and transparency, as well as chronic delays in the consideration of cases submitted for review are also long-standing issues that plague the system.
4. The Group believes that resolutions 61/261 and 62/228 provide a clear road map and define the key features of such a system. We seriously regret the numerous delays and as well as the numerous tasks still outstanding, but we renew our commitment to work hard for the new system of administration of justice to be implemented in January 2009, as envisaged by the General Assembly. We remain very concerned over the fact that all new posts approved last December remain vacant. In particular, we deeply regret that the Secretariat has been unable as yet to fill the position of Executive Director of the new Office of Administration of Justice, which was supposed to facilitate and coordinate the process of the establishment of the new system.
5. As a matter of priority, we need to finalize the pending issues regarding the Statutes of both UN Dispute and Appeals Tribunals as well as issues pertaining to the appointment and the renewal of the new judges. These issues will also have to be elucidated on very soon in order to have the new structure in place by the beginning of the year.
6. The quality of the formal system hinges on the quality of the judges. We believe that in this context the Internal Justice Council plays an important role. The final appointment of judges to the UN tribunals should continue to be a prerogative of the General Assembly. The Group supports attractive remuneration for the UN judges to recruit highly qualified legal practitioners. In this regard the Group endorses the Secretary-General's proposals for the compensation of judges as set out in paragraphs 82 to 83 of his report (A/62/314) regarding compensation of judges.

7. Regarding the transitional measures, it is evident that we need to agree upon temporary measures that will allow for a smooth transition from one system to the other, without placing excessive burden in the new structures. Among others, we see merit in the Committee's recommendation to approve the SG's proposal of strengthening of the Dispute Tribunal through the addition of three ad litem judges for a 12-month period following the establishment of the Tribunal, with a view to clearing the backlog.

8. The Group notes the committee's concern in regards to the delegation of authority. We also note the Advisory Committee's point that the administrative instruction can only be finalized following a decision by the General Assembly on the policy regarding limited delegation of authority. In this context, the Group concurs with the Advisory Committee that there is a need to ensure effective monitoring and adequate guidance on delegation of authority for disciplinary cases, as well as clear consequences for the failure to exercise such delegated authority in a proper manner (A/63/526, para. 11). There is also a need for clearly defined lines of responsibility and accountability during the investigative disciplinary process. We need to discuss this issue without further delay in order to grasp a better understanding of the proposals on the table to effectively replace the Joint Disciplinary Committee with the United Nations Dispute Tribunal as set forth in paragraph 20 resolution 61/261.

9. The Group of 77 and China believes that a well-resourced formal system of justice is vital. We endorsed paragraph 62 of its resolution 62/228, where the General Assembly approved the cost-sharing arrangement proposed by the Secretary-General in his previous report (see A/62/294, paras. 161 and 162) which was based on the total number of staff members in the Secretariat and in the funds and programmes. We note the difference in views and opinions in the cost sharing by the funds and programmes. The Groups expects that the Secretary-General will exercise his leadership to conclude negotiations on this matter expeditiously to have an agreement between the Secretariat and the funds and programmes on cost-sharing arrangements based on headcount, as originally envisaged.

10. The Group supports the strengthening of informal system as a means to avoid burdening the formal system. Therefore the group agree to strengthened Ombudsman system as well as the Mediation Division as key elements of the new Administration of Justice system which should be instrumental in facilitating the early resolution components of the Administration of Justice system to ensure that cases are disposed of in a fair and timely manner. We consider that a structured and strong Mediation Division, managed by professionally qualified personnel and conveniently decentralized is a core function of the system and it will help solve most of the problems in a cost-efficient and fast way. The Group urges the Ombudsman to complete this process as a matter of priority and to issue its own terms of reference as soon as possible.

Mr. Chairman,

11. The Group notes the Proposal to amend the staff rules (A/63/314) 10.1 and 11.1, which would come into effect simultaneously with the implementation of the new system of administration of justice on 1 January 2009. The Group agrees with the Committee that the proposed amendments are contingent upon the adoption of the statutes of the Tribunals and/or the procedures for dealing with disciplinary cases.

12. The Group of 77 and China notes the SG proposal regarding the use of ITC to improve the functioning of the system of AOJ in response to para. 71 of GA resolution 62/228. The Group would like to emphasize that the new system of administration of justice should ensure the protection of the confidentiality of the parties involved in a dispute that is sub-judice before the system. The

