



General Assembly

Seventy-third session

Official Records

41st plenary meeting

Wednesday, 28 November 2018, 10 a.m.
New York

President: Ms. Espinosa Garcés. (Ecuador)

In the absence of the President, Mr. Korneliou (Cyprus), Vice-President, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 117 (continued)

Appointments to fill vacancies in subsidiary organs and other appointments

(h) Appointment of the judges of the United Nations Dispute Tribunal

Memorandum of the Secretary-General (A/73/422 and A/73/422/Corr.1)

Report of the Internal Justice Council (A/73/203 and A/73/203/Corr.1)

The Acting President: As indicated in document A/73/422, the terms of office of one full-time judge of the Dispute Tribunal based in New York, Judge Memooda Ebrahim-Carstens and one half-time judge of the Dispute Tribunal, Judge Goolam Hoosen Kader Meeran, are due to expire on 30 June 2019. It is therefore necessary for the General Assembly, during its current session, to appoint a full-time judge based in New York and a half-time judge to the Dispute Tribunal, to fill the resulting vacancies. In accordance with paragraph 4 of article 4 of the statute of the United Nations Dispute Tribunal, the term of office of the full-time judge and the half-time judge will be seven years.

In its report to the General Assembly (A/73/203), the Internal Justice Council has recommended to the Assembly for its consideration two candidates for the

full-time vacancy in New York and two candidates for the half-time vacancy. Also in its report, the Council has provided the names, by position, location and Tribunal, of candidates it considers suitable for election to the Dispute Tribunal. The candidates recommended by the Council for appointment as a full-time judge in New York are Joëlle Adda (France) and Ole Jan van Leeuwen (Netherlands). The candidates recommended by the Council for appointment as a half-time judge are Angela Henke (Germany) and Francesco Buffa (Italy).

The appointment of the full-time judge and the half-time judge of the United Nations Dispute Tribunal will be made in accordance with the statute of the Dispute Tribunal and the rules of procedure of the General Assembly. Article 4 of the statute of the Dispute Tribunal states that

“[t]he Dispute Tribunal shall be composed of three full-time judges and two half-time judges... The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance.”

Paragraph 3 of article 4 of the statute of the Dispute Tribunal requires that, in order to be eligible for appointment, a person shall be of high moral character and impartial; possess at least 10 years of judicial experience in the field of administrative law or the equivalent within one or more national jurisdictions;

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and be fluent, both orally and in writing, in English or French.

Paragraph 4 of article 4 of the statute of the Dispute Tribunal provides that

“[a] judge of the Dispute Tribunal shall be appointed for one non-renewable term of seven years... A current or former judge of the United Nations Appeals Tribunal shall not be eligible to serve in the Dispute Tribunal.”

In document A/73/422, it is proposed that the General Assembly proceed to appoint the judges through an election, bearing in mind paragraph 58 of resolution 63/253, in which the Assembly invited Member States, when electing judges to the United Nations Dispute Tribunal, to take due consideration of geographical distribution and gender balance.

Only those candidates recommended by the Internal Justice Council are eligible for election. The electors in the General Assembly will indicate the candidates for whom they wish to vote by marking each name with a cross on the ballot papers. Electors may vote for not more than one candidate for the full-time appointment in New York and one candidate for the half-time appointment to the Dispute Tribunal.

Those candidates who obtain the highest number of votes and a majority of votes in the General Assembly of the members present and voting will be considered as elected and thereby appointed by the Assembly to the Dispute Tribunal. Balloting shall continue in accordance with the rules of procedure until as many candidates as are required for the full-time and half-time seats on the Dispute Tribunal to be filled have obtained, in one or more ballots, a majority of votes of the members present and voting.

May I take it that the Assembly agrees to these procedures?

It was so decided.

The Acting President: The General Assembly will now proceed to the election of one full-time judge in New York and one half-time judge to the United Nations Dispute Tribunal, using the voting procedures just outlined.

The election will be held in accordance with the relevant rules of procedure of the General Assembly. Therefore, in accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot.

Before we begin the voting process, I should like to remind members that pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting. In addition, ballot papers will be given only to the delegate seated directly behind the country's nameplate.

We shall now begin the voting process. Members are requested to remain seated until all ballots have been collected.

At the invitation of the Acting President, Mrs. Petkovic (Croatia), Ms. Bailey (Jamaica), Mr. Omurzakov (Kyrgyzstan), Mr. Bhattarai (Nepal), Ms. Eymann (Switzerland) and Mr. Fintakpa Lamega (Togo) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 10.30 a.m. and resumed at 11.05 a.m.

The Acting President: The result of the voting is as follows:

Full-time judge (New York):

Number of ballot papers:	173
Number of invalid ballots:	0
Number of valid ballots:	173
Abstentions:	8
Number of members voting:	165
Required majority:	83
Number of individual votes obtained:	
Ms. Joëlle Adda (France)	88
Mr. Ole Jan van Leeuwen (Netherlands)	77

Half-time judge:

Number of ballot papers:	173
Number of invalid ballots:	0
Number of valid ballots:	173
Abstentions:	3
Number of members voting:	170
Required majority:	86
Number of individual votes obtained:	
Mr. Francesco Buffa (Italy)	88
Ms. Angela Henke (Germany)	82

Having obtained the required majority of votes of the members present and voting and the highest number of votes, Ms. Joëlle Adda (France) was elected a full-time judge of the United Nations

Dispute Tribunal in New York and Mr. Francesco Buffa (Italy) was elected a half-time judge of the United Nations Dispute Tribunal, for terms of office beginning on 1 July 2019 and ending on 30 June 2026.

The Acting President: I take this opportunity to extend to those who have been elected the congratulations of the Assembly and to thank the tellers for their assistance in this election.

The General Assembly has thus concluded this stage of its consideration of sub-item (h) of agenda item 117.

(i) Appointment of the judges of the United Nations Appeals Tribunal

**Memorandum of the Secretary-General
(A/73/422 and A/73/422/Corr.1)**

**Report of the Internal Justice Council
(A/73/203 and A/73/203/Corr.1)**

The President: As indicated in document A/73/422, one judicial position on the Appeals Tribunal is presently vacant following the resignation of Judge Rosalyn M. Chapman, effective 3 November 2017. The unexpired remainder of Judge Chapman's seven-year term ends on 30 June 2019. Accordingly, there is a need to appoint a judge to fill that vacancy.

In connection with the vacancy, the Internal Justice Council, in paragraph 32 of its report, recommends that the Assembly appoint a judge to fill the vacancy created by the expiration of Judge Chapman's term for the full period of a seven-year term, beginning on 1 July 2019. Also, as indicated in the same document, the terms of office of Judge Richard Lussick and Judge Deborah Thomas-Felix are due to expire on 30 June 2019. It is therefore necessary for the General Assembly, during its current session, to appoint two judges to the Appeals Tribunal for a term of office of seven years, beginning on 1 July 2019.

As also indicated in documents A/73/422 and A/73/422/Corr.1, in accordance with paragraph 2 of article 3 of the statute of the Appeals Tribunal, the

“judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with General Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance.”

The candidates recommended by the Council for appointment to the Appeals Tribunal are Graeme Colgan (New Zealand), Gary Donahoe (United States of America), Cécile Isidoro (France), Jean-François Neven (Belgium) and Kanwaldeep Sandhu (Canada). In order to be eligible for appointment, paragraph 3 of article 3 of the statute of the Appeals Tribunal requires that a person be of high moral character and impartial; possess at least 15 years of aggregate judicial experience in the field of administrative law, employment law or the equivalent within one or more national jurisdictions; and be fluent, both orally and in writing, in at least one of the working languages of the Appeals Tribunal.

In document A/73/422, it is proposed that the General Assembly proceed to appoint the judges of the Appeals Tribunal by way of an election, bearing in mind paragraph 58 of resolution 63/253, in which the Assembly invited Member States, when electing judges to the United Nations Appeals Tribunal, to take due consideration of geographical distribution and gender balance.

If there is no objection, may I take it that the General Assembly agrees to the proposal?

It was so decided.

The Acting President: The candidates who obtain the highest number of votes and a majority of the votes of those present and voting, shall be considered elected and thereby appointed by the Assembly to the Appeals Tribunal. Also, balloting shall continue, in accordance with the rules of procedure of the General Assembly, until as many candidates as are required for the seats on the Appeals Tribunal to be filled have obtained, in one or more ballots, a majority of votes of the members present and voting. Also, consistent with past practice, in case, due to a tied vote, it becomes necessary to determine the candidate to be elected or that will proceed to the next round of restricted balloting, there will be a special restricted ballot limited to those candidates that have obtained an equal number of votes.

May I take it that the General Assembly agrees to these procedures?

It was so decided.

The Acting President: The General Assembly will now proceed to the election of the three judges of the United Nations Appeals Tribunal.

Only those candidates whose names appear on the ballot papers are eligible for election. Representatives are requested to indicate the candidate for whom they wish to vote by marking that candidate's name with a cross on the ballot paper. Each representative may vote for not more than three candidates for appointment to the Appeals Tribunal. The election will be held in accordance with the relevant rules of procedure of the General Assembly. Therefore, in accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot.

Before we begin the voting process, I should like to remind members that pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting. In addition, ballot papers will be given only to the delegate seated directly behind the country's nameplate.

We shall now begin the voting process. Members are requested to remain seated until all ballots have been collected.

At the invitation of the Acting President, Mrs. Petkovic (Croatia), Ms. Bailey (Jamaica), Mr. Omurzakov (Kyrgyzstan), Mr. Bhattarai (Nepal), Ms. Eymann (Switzerland) and Mr. Fintakpa Lamega (Togo) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 11.25 a.m. and resumed at 12.05 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	175
Number of invalid ballots:	0
Number of valid ballots:	175
Abstentions:	3
Number of members voting:	172
Required majority:	87
Number of individual votes obtained:	
Mr. Jean-François Neven (Belgium)	107
Mr. Graeme Colgan (New Zealand)	105
Mr. Kanwaldeep Sandhu (Canada)	102
Ms. Cécile Isidoro (France)	101
Gary Donahoe (United States of America)	85

Having obtained the required majority of votes of members present and voting and the largest number of votes, Mr. Jean-François Neven

(Belgium), Mr. Graeme Colgan (New Zealand) and Mr. Kanwaldeep Sandhu (Canada) were elected judges of the United Nations Appeals Tribunal for a term of office beginning on 1 July 2019 and ending on 30 June 2026.

The Acting President: I take this opportunity to extend to those who have been elected the congratulations of the Assembly and to thank the tellers for their assistance in this election.

May I take it that it is the wish of the General Assembly to conclude its consideration of sub-item (i) of agenda item 117?

It was so decided.

Programme of work

The Acting President: In reference to a letter of the President of the General Assembly dated 23 November 2018, I would like to draw the attention of members to the date of recess of the current session. Members will recall that at its 3rd plenary meeting, on 21 September, the General Assembly decided that the seventy-third session would recess on Monday, 17 December. However, in view of the work that remains to be completed for this part of the session, I would like to propose to the Assembly that it postpone the date of recess to Friday, 21 December.

If there is no objection, may I take it that the Assembly agrees to postpone the date of recess to Friday, 21 December?

It was so decided (decision 73/502).

The Acting President: In reference to a letter of the President dated 27 November 2018, I should also like to consult members regarding the draft oral decision concerning an award ceremony for the United Nations Prize in the Field of Human Rights.

May I take it that the General Assembly, guided by the purposes and principles of the Charter of the United Nations and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993; recalling its resolution 2217 (XXI) of 19 December 1966 on the International Year for Human Rights, specifically its recommendation C that a prize or prizes should be awarded, for the first time, on 10 December 1968, on the occasion of the celebration of the twentieth anniversary of the Universal Declaration of Human Rights and that

thereafter prizes should not be awarded more often than at five-year intervals; recognizing that 2018 marks the seventieth anniversary of the Universal Declaration of Human Rights and the twenty-fifth anniversary of the Vienna Declaration and Programme of Action and the establishment of the Office of the High Commissioner for Human Rights; first, decides to hold the award ceremony for the United Nations Prize in the Field of Human Rights at the plenary meeting of the General Assembly on 18 December 2018, immediately after the commemorative meeting on the occasion of the seventieth anniversary of the Universal Declaration of Human Rights and of the twenty-fifth anniversary of the Vienna Declaration and Programme of Action; and, secondly, decides that the United Nations High Commissioner for Human Rights will address the plenary meeting?

The draft oral decision was adopted (decision 73/509).

The Acting President: I should also like to consult members regarding an extension of the work of the Second Committee. Members will recall that at its 3rd plenary meeting, on 21 September, the General Assembly approved the recommendation of the General Committee that the Second Committee would complete its work by Thursday, 29 November. However, I have been informed by the Chair of the Second Committee that the Committee requests an extension of its work to Wednesday, 5 December, in view that such an extension would facilitate reaching consensus on the pending resolutions before it.

May I therefore take it that the General Assembly agrees to extend the work of the Second Committee until Wednesday, 5 December?

It was so decided.

The meeting rose at 12.10 p.m.