

Tribunal. Although Canada opposed this particular method of review it was prepared to accept the principle of judicial review. A resolution was drafted which accepted the principle of judicial review but left the details of the procedure to be worked out by a special committee of 18 member states. The United States agreed to drop its proposal and joined Canada and several other states in co-sponsoring this resolution which was adopted by the General Assembly. The special committee¹ met in April 1955 and there was considerable divergence of opinion in the committee on the procedure for review. However a compromise proposal was adopted by a vote of 9 in favour (including Canada), 4 against, with 4 abstentions which provided that if objection were taken to a decision of the Administrative Tribunal on the grounds that it had exceeded its jurisdiction or competence or erred on a question of law relating to the provisions of the Charter or had committed a fundamental error in procedure a member state, the Secretary-General or the employee concerned might request a screening committee, composed of representatives of 15 member states, to obtain an advisory opinion from the International Court of Justice. If the screening committee agreed that there was "substantial basis for the application" it would forward the request for an advisory opinion to the Court. The proposed procedure also provided that the Secretary-General or the applicant might apply to the Tribunal for a revision of a judgment on the basis of the discovery of some fact, decisive in nature, which was unknown to the Tribunal when the judgment was given.

At the tenth session in 1955, the proposals of the special committee were incorporated in a resolution co-sponsored by the United Kingdom, the United States, Canada and five other countries. This resolution also recommended that member states or the Secretary-General should not make oral statements before the International Court. This recommendation, originally proposed by Canada in the special committee, was designed to place the member states and the Secretary-General on an equal footing with a staff member who cannot appear before the Court. Those who objected to the proposed review procedure argued that the provisions allowing a third party, i.e. a member state, to initiate a review was a contradiction of the principle of judicial review; that the composition of the screening committee introduced a political element into the review since its membership was that of the General Committee, a political organ of the General Assembly; and that the International Court of Justice was not an appropriate body for reviewing judgments of the Administrative Tribunal since the contentious jurisdiction of the Court was limited to disputes between states. Those who supported the proposed procedure pointed out that a member state had a legitimate interest in ensuring the proper application of the United Nations Charter and the Staff Regulations; that the duties of the screening committee would be strictly limited to ascertaining whether there was a substantial basis for the application under one of the three grounds for review; and that the use of the Court as a review body would provide an independent, impartial organ of the highest order. It was further pointed out that there was a precedent for the proposed review procedure in the provisions of the statute of the Administrative Tribunal of the International Labour Organization which had already been accepted by member states. The opposing points of view were argued vigorously in the Fifth (Administrative and Budgetary) Committee, and the critics of the review procedure re-opened the question in the plenary session of the General Assembly. However, the resolution containing the special committee's proposal was adopted with minor textual changes by a vote of 33 in favour, 17 against, with 9 abstentions.

¹The membership of this special committee consists of representatives of Argentina, Australia, Belgium, Brazil, Canada, China, Cuba, El Salvador, France, India, Iraq, Israel, Norway, Pakistan, Syria, U.S.S.R., U.K., U.S.