

**CORRESPONDENCE**

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## 1. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

11 September 1984.

I have the honour to acknowledge receipt of the letter of 28 August 1984 whereby Your Excellency informed the President of the Court that the Committee on Applications for Review of Administrative Tribunal Judgements had on 23 August 1984 decided to request of the International Court of Justice an advisory opinion on an application for the review of Judgement No. 333 of the United Nations Administrative Tribunal, and to inform you that your letter, with which you transmitted certified copies of the English and French texts of the Committee's decision, was duly filed in the Registry on the date of its receipt, namely 10 September 1984.

In accordance with Article 66, paragraph 1, of the Statute of the Court, I shall be notifying all States entitled to appear before the Court of the request for an advisory opinion. I shall shortly transmit to you a copy of the printed Request, containing the text of your letter in English and French, as transmitted to those States.

I have taken note that in accordance with Article 65, paragraph 2, of the Statute of the Court you will be transmitting to the Court all documents likely to throw light upon the question. I have further taken note that, in accordance with Article 11, paragraph 2, of the Statute of the United Nations Administrative Tribunal, you will be arranging for the transmission to the Court of such views as the person in respect of whom Judgement No. 333 was rendered may wish to submit.

*(Signed)* Santiago TORRES BERNÁRDEZ.

## 2. THE DEPUTY-REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

28 September 1984.

I have the honour to refer to your letter of 28 August 1984, by which you were good enough to communicate to the Court a decision taken on 23 August 1984 by the Committee on Applications for Review of Administrative Tribunal Judgements concerning a request for advisory opinion. Today, in accordance with Article 66, paragraph 1, of the Statute of the Court, I have notified all States entitled to appear before the Court of the request for an advisory opinion. I am enclosing herewith, for your information, a copy of the printed Request, containing the text of your letter in English and French, as transmitted to those States.

In connection with this Request, I have the honour to draw your attention to Article 66, paragraph 2, of the Statute of the Court, which provides:

"The Registrar shall also, by means of a special and direct communication, notify any State entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time-limit to be fixed by the

President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.”

In pursuance of this provision, I have the honour to inform you by this special and direct communication that in the present case the United Nations and its member States have been considered by the President of the Court as likely to be able to furnish information on the question, and that, by an order dated 13 September 1984, a copy of which is also enclosed, the President has fixed 14 December 1984 as the time-limit for the submission of written statements. The subsequent procedure has been reserved for further decision.

I am further to inform you that the President considers that it would facilitate the work of the Court on this request for advisory opinion if, as in previous cases, any written statement presented on behalf of the United Nations, and any other documentation, were made available to the Court in both the official languages of the Court (English and French).

*(Signed)* Eduardo VALENCIA-OSPINA.

3. LE GREFFIER ADJOINT AU MINISTRE DES AFFAIRES ÉTRANGÈRES  
D'AFGHANISTAN <sup>1</sup>

28 septembre 1984.

J'ai l'honneur, en exécution de l'article 66, paragraphe 1, du Statut de la Cour internationale de Justice, de faire tenir ci-joint à Votre Excellence un exemplaire, imprimé par les soins du Greffe, de la requête pour avis consultatif transmise à la Cour par le Secrétaire général de l'Organisation des Nations Unies en vertu d'une décision du Comité des demandes de réformation de jugements du Tribunal administratif en date du 23 août 1984.

4. LE GREFFIER ADJOINT AU MINISTRE DES AFFAIRES ÉTRANGÈRES  
D'AFGHANISTAN <sup>1</sup>

28 septembre 1984.

Il est connu de Votre Excellence que, le 23 août 1984, le Comité des demandes de réformation de jugements du Tribunal administratif des Nations Unies a pris la décision suivante:

« Le Comité des demandes de réformation de jugements du Tribunal administratif, à la 4<sup>e</sup> séance de sa vingt-quatrième session, tenue le 23 août 1984, a décidé que la demande de réformation du jugement n<sup>o</sup> 333 du Tribunal administratif rendu à Genève le 8 juin 1984 repose sur des bases sérieuses au sens de l'article 11 du statut du Tribunal.

En conséquence, le Comité des demandes de réformation de jugements du Tribunal administratif prie la Cour internationale de Justice de donner un avis consultatif sur les questions suivantes:

<sup>1</sup> Une communication analogue a été adressée aux autres Etats admis à ester devant la Cour.

«1) Dans son jugement n° 333, du 8 juin 1984 (AT/DEC/333), le Tribunal administratif des Nations Unies a-t-il manqué d'exercer sa juridiction en ne répondant pas à la question de savoir s'il existait un obstacle juridique au renouvellement de l'engagement du requérant à l'Organisation des Nations Unies après la venue à expiration de son contrat le 26 décembre 1983?

2) Le Tribunal administratif des Nations Unies, dans le même jugement n° 333, a-t-il commis une erreur de droit concernant les dispositions de la Charte des Nations Unies?»

Le texte de cette décision est parvenu au Greffe de la Cour le 10 septembre 1984. Sous le couvert d'une lettre en date d'aujourd'hui une édition imprimée en a été communiquée à Votre Excellence en exécution de l'article 66, paragraphe 1, du Statut de la Cour.

Le paragraphe 2 du même article du Statut prévoit :

«à tout Etat admis à ester devant la Cour et à toute organisation internationale jugés, par la Cour ou par le Président si elle ne siège pas, susceptibles de fournir des renseignements sur la question, le Greffier fait connaître, par communication spéciale et directe, que la Cour est disposée à recevoir des exposés écrits dans un délai à fixer par le Président, ou à entendre des exposés oraux au cours d'une audience publique tenue à cet effet».

Appliquant cette disposition, j'ai l'honneur de faire connaître à Votre Excellence, par la présente communication spéciale et directe, qu'en l'espèce et à ce jour l'Organisation des Nations Unies et ses Etats Membres ont été jugés par le Président susceptibles de fournir des renseignements sur la question et que, par ordonnance datée du 13 septembre 1984, dont un exemplaire est joint, le Président a fixé au 14 décembre 1984 la date d'expiration du délai pour la présentation d'exposés écrits. La suite de la procédure est réservée.

Au cas où votre gouvernement désirerait se prévaloir de la faculté qui lui est ouverte de présenter un exposé écrit dans le délai ainsi fixé, j'attacherais du prix à en être informé aussitôt que possible. J'ajoute que l'exposé devrait être rédigé soit en français soit en anglais, langues officielles de la Cour (article 39, paragraphe 1, du Statut).

##### 5. THE SECRETARY OF THE COMMITTEE ON APPLICATIONS FOR REVIEW OF ADMINISTRATIVE TRIBUNAL JUDGEMENTS TO THE REGISTRAR

8 October 1984.

Further to my letter of 4 September 1984, I am sending you herewith three copies (in English, French and Spanish) of the report of the Committee on Applications for Review of Administrative Tribunal Judgements (A/AC.86/30) reflecting its deliberations at the twenty-fourth session and decisions on the applications submitted by Mr. Yakimetz, Mr. Large and Mr. Fischman.

I am also attaching three copies of the verbatim record of the 5th meeting of the Committee at which in accordance with paragraph 4 of Article VII of the rules of procedure, the decision of the Committee on the application of Mr. Yakimetz was formally announced and members of the Committee made statements for the record. This verbatim record is provided only in English and in French as required by paragraph 2 of Article XI of the Committee's rules of procedure.

*(Signed)* Vladimir GOLITSYN.

6. THE REGISTRAR TO THE SECRETARY OF THE COMMITTEE FOR REVIEW OF ADMINISTRATIVE TRIBUNAL JUDGEMENTS

18 October 1984.

Thank you for your letter of 8 October 1984 enclosing copies of the Report of the Committee on Applications for Review of Administrative Tribunal Judgements (A/AC.86/30) reflecting its deliberations at the twenty-fourth session and decisions on the applications submitted by Mr. Yakimetz, Mr. Large and Mr. Fischman.

Thank you also for the copies of the verbatim record of the 5th meeting of the Committee at which the decision on the application of Mr. Yakimetz was formally announced.

7. THE LEGAL ADVISER OF THE UNITED STATES DEPARTMENT OF STATE TO THE DEPUTY-REGISTRAR

21 November 1984.

I have the honor to refer to your letter of 28 September 1984 addressed to the Secretary of State of the United States of America. In that letter you inform the United States, pursuant to Article 66, paragraph 2, of the Statute of the Court, that the United Nations and its member States have been considered by the President of the Court as likely to be able to furnish information to the Court on questions raised in the request of 23 August 1984 from the United Nations Committee on Applications for Review of Administrative Judgements for an advisory opinion concerning Administrative Tribunal Judgement No. 333, which was delivered at Geneva on 8 June 1984.

I have the honor to advise the Court that the United States intends to avail itself of the right to present a written statement to the Court in this case.

I have been informed that the United Nations has requested that the time-limit fixed by the President be extended. The United States would also find an extension of the time-limit convenient, and hopes that the President will rule favorably on the request of the United Nations.

(Signed) Davis R. ROBINSON.

8. THE LEGAL COUNSEL OF THE UNITED NATIONS TO THE REGISTRAR

26 November 1984.

I have the honour to refer to the Order of 13 September 1984 in respect of the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, which Order fixes 14 December 1984 as the time-limit within which written statements may be submitted to the Court in accordance with Article 66, paragraph 2, of the Statute of the Court.

On behalf of the Secretary-General I would like to seek an extension of time until 28 February 1985 in which to file the Written Statement on behalf of the United Nations. The reason for this request, which is regretted, is that pressure of business during the current session of the General Assembly has made it impossible to complete the Written Statement by the date fixed.

I also wish to advise that we expect that the dossier of documents to be submitted pursuant to Article 65, paragraph 2, of the Statute and Article 104 of the Rules of Court will be available by 14 December 1984.

Counsel for Mr. Yakimetz is being informed of this request.

(Signed) Carl-August FLEISCHHAUER.

9. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

(telex)

30 November 1984.

With reference to your letter of 26 November 1984, transmitted by facsimile, concerning the time-limit for the submission of written statements in the case concerning the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, I have the honour to inform you that by Order dated 30 November 1984 the President of the Court has extended that time-limit to 28 February 1985. Member States are being advised forthwith by letter.

10. THE REGISTRAR TO THE LEGAL ADVISER OF THE UNITED STATES DEPARTMENT OF STATE

30 November 1984.

I have the honour to acknowledge receipt of the letter dated 21 November 1984, addressed to the Deputy-Registrar, by which you were so good as to inform the Court that the United States intends to avail itself of the right to present a written statement to the Court in the proceedings on the request for an advisory opinion concerning an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

Having noted, further, that your Government would find convenient an extension of the time-limit for the filing of such a statement, I wish to advise you that the President of the Court has today made an Order whereby, following a request made on behalf of the Secretary-General of the United Nations, the time-limit has been extended to 28 February 1985. A copy of the Order will be despatched to you in due course.

11. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES  
D'AFGHANISTAN<sup>1</sup>

30 novembre 1984.

J'ai l'honneur de me référer à la lettre que le Greffier adjoint vous a adressée le 28 septembre 1984 au sujet de la requête pour avis consultatif soumise à la

<sup>1</sup> Une communication analogue a été adressée aux autres Etats admis à ester devant la Cour. Le même envoi a été fait au Secrétaire général de l'Organisation des Nations Unies.

Cour et qui concerne une *Demande de réformation du jugement n° 333 du Tribunal administratif des Nations Unies*. Il était notamment indiqué dans cette lettre que le Président de la Cour avait fixé au 14 décembre 1984 la date d'expiration du délai pour la présentation d'exposés écrits à la Cour, en application de l'article 66, paragraphe 2, du Statut.

Il m'incombe aujourd'hui de porter à votre attention que, le Secrétaire général de l'Organisation des Nations Unies ayant demandé un report, le Président a pris aujourd'hui une ordonnance prorogeant le délai prévu jusqu'au 28 février 1985. Un exemplaire de cette ordonnance est joint à la présente lettre; des exemplaires imprimés seront ultérieurement transmis par les voies habituelles.

**12. THE LEGAL COUNSEL OF THE UNITED NATIONS  
TO THE REGISTRAR**

14 December 1984.

I have the honour to refer to the Orders of 13 September 1984 and 30 November 1984 in respect of the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal* and to my letter of 26 November 1984 which indicated that the dossier of documents to be submitted pursuant to Article 65, paragraph 2, of the Statute and Article 104 of the Rules of Court would be available by 14 December 1984.

On behalf of the Secretary-General I wish to advise that copies of the dossier, 30 each in English and in French were today dispatched to the Court. A copy in each language was also transmitted to counsel for the Applicant.

As the proceeding before the Tribunal and the Committee on Applications for Review of Administrative Tribunal Judgements were centred on the meaning of paragraph 5 of Section IV of General Assembly resolution 37/126 and on paragraph 5 of Section VI of General Assembly resolution 38/232, Part II of the dossier concentrates on the direct drafting history of these provisions, while Part I contains the documents directly relevant to the proceedings. If the Court wishes any further background information, perhaps in the light of any Written Statements subsequently submitted, the Secretary-General would, of course, be pleased to submit any additional documentation deemed relevant by the Court.

**13. THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE  
NETHERLANDS TO THE REGISTRAR**

3 January 1985.

In reply to your letters No. 72530 and No. 72531 dated 28 September 1984 I have the honour, in accordance with the instruction which I have received, to send to you the remarks of the Soviet side concerning the questions submitted to the International Court of Justice for advisory opinion.

*(Signed)* V. BELETSKY.

14. THE FIRST SECRETARY TO THE AMBASSADOR OF THE UNION OF SOVIET  
SOCIALIST REPUBLICS TO THE NETHERLANDS

3 January 1985.

I have the honour to acknowledge receipt, with Your Excellency's letter of today's date, of the written statement submitted by your Government in the proceedings on a request for advisory opinion concerning an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

(Signed) C. POUX.

15. THE FIRST SECRETARY TO THE LEGAL COUNSEL OF THE UNITED NATIONS

4 January 1985.

I have the honour to acknowledge receipt of the letter you addressed to the Registrar on 14 December 1984 on behalf of the Secretary-General concerning the documents supplied by him pursuant to Article 65, paragraph 2, of the Statute of the Court in the proceedings on the request for advisory opinion concerning an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, as also of the 30 sets of those documents in English, and 30 in French, whose dispatch your letter announced.

Note is further taken of the Secretary-General's readiness to submit any additional documentation deemed relevant by the Court.

16. LE CHEF DU SERVICE DU CONTENTIEUX DIPLOMATIQUE, DES TRAITÉS ET DES  
AFFAIRES LÉGISLATIVES DU MINISTÈRE DES AFFAIRES ÉTRANGÈRES DE L'ITALIE

Rome, le 23 février 1985.

J'ai l'honneur, en me référant à votre lettre du 28 septembre 1984, de vous faire tenir ci-joint l'exposé écrit du Gouvernement italien au sujet de la requête pour avis consultatif transmise à la Cour par le Secrétaire général des Nations Unies en vertu de la décision du Comité des demandes de réformation de jugements du Tribunal administratif en date du 23 août 1984.

(Signé) Arnaldo SQUILLANTE.

17. THE LEGAL COUNSEL OF THE UNITED NATIONS TO THE REGISTRAR

26 February 1985.

I have the honour to transmit herewith a letter from the Secretary-General, addressed to the President of the International Court of Justice, authorizing me to present written statements on his behalf in the matter of the Advisory Opinion on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.



Pursuant to the above-mentioned authorization, I have the honour to transmit herewith for communication to the Court thirty copies of the written statement on behalf of the Secretary-General and thirty copies of a written statement setting forth the views of Mr. Yakimetz, the Applicant to whom the above-mentioned judgement of the Administrative Tribunal relates.

Thirty copies of French translations of the Secretary-General's written statement will be despatched under separate cover prior to 28 February and thirty copies of a French translation of the written statement of Mr. Yakimetz will follow shortly thereafter.

**18. THE SECRETARY-GENERAL OF THE UNITED NATIONS TO THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE**

26 February 1985.

I have the honour to inform you that I have designated Mr. Carl-August Fleischhauer, Under-Secretary-General, the Legal Counsel, as the representative of the Secretary-General in the proceedings of the Court concerning the request by the Committee on Applications for Review of Administrative Tribunal Judgements for an advisory opinion on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

Mr. Fleischhauer is authorized to present written statements on behalf of the Secretary-General in the matter before the Court.

(Signed) Javier PÉREZ DE CUÉLLAR.

**19. THE LEGAL ADVISER OF THE UNITED STATES DEPARTMENT OF STATE TO THE REGISTRAR**

26 February 1985.

I have the honor to refer to my letter dated 21 November 1984. Therein, I informed the Court that it was the intention of the United States to avail itself of the right conferred under Article 66 of the Statute of the Court to present its views concerning the request by the Committee on Applications for the Review of Administrative Tribunal Judgements for an advisory opinion with respect to Tribunal Judgement No. 333 (*Yakimetz*). I refer also to the Court's Order of 30 November 1984 extending the time-limit for the submission of pleadings in this case until 28 February 1985.

The written statement of the Government of the United States of America concerning this case is attached hereto.

**20. THE AMBASSADOR OF CANADA TO THE NETHERLANDS TO THE REGISTRAR**

27 February 1985.

On behalf of Canada, I have the honour to send to the International Court of Justice the attached statement, in English and French, concerning the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

(Signed) L. A. H. SMITH.

21. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES DU GOUVERNEMENT  
DE L'ITALIE

27 février 1985.

J'ai l'honneur d'accuser réception de votre lettre du 23 février 1985 et de l'exposé écrit du Gouvernement italien au sujet de la requête pour avis consultatif transmise à la Cour par le Secrétaire général des Nations Unies en l'affaire de la *Demande de réformation du jugement n° 333 du Tribunal administratif des Nations Unies*.

22. THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE TO THE  
SECRETARY-GENERAL OF THE UNITED NATIONS

28 February 1985.

I have the honour to acknowledge receipt of your letter of 26 February 1985, by which you were good enough to inform me that you have designated Mr. Carl-August Fleischhauer, Under-Secretary-General, the Legal Counsel, as your representative in the proceedings concerning the request by the Committee on Applications for Review of Administrative Tribunal Judgements for an advisory opinion on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

(Signed) NAGENDRA SINGH.

23. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

28 February 1985.

I have the honour to acknowledge receipt of your letter of 26 February 1985, transmitting a letter from the Secretary-General to the President of the Court, and transmitting also copies of the written statement on behalf of the Secretary-General in respect of the request for an advisory opinion on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, and copies of a written statement setting forth the views of the Applicant to whom that judgement of the Administrative Tribunal relates.

24. THE REGISTRAR TO THE AMBASSADOR OF CANADA TO THE NETHERLANDS

28 February 1985.

I have the honour to acknowledge receipt of your letter of 27 February 1985, with which Your Excellency was good enough to transmit to me the written statement of Canada concerning the request for advisory opinion on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

25. THE REGISTRAR TO THE LEGAL ADVISER OF THE UNITED STATES DEPARTMENT  
OF STATE

28 February 1985.

I have the honour to acknowledge receipt of your letter of 26 February 1985, with which you were good enough to transmit to me the written statement of the United States of America concerning the request for advisory opinion on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

26. THE LEGAL COUNSEL OF THE UNITED NATIONS TO THE REGISTRAR

28 February 1985.

I have the honour to transmit a copy of a letter dated 25 February 1985 from Diana Boernstein Esq., Counsel for Mr. Yakimetz, in the matter of the Advisory Opinion on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

Ms. Boernstein indicates that she will be on mission for the United Nations until 19 April and has requested me to seek that the Court extend until six weeks after that date the time-limit for submission of comments on written statements submitted in this matter.

It is noted that the Court previously extended, at the request of the United Nations, the time-limit for submission of written statements to 28 February 1985. The United Nations considers that it would not be prejudiced by the Court granting the present request in respect of time-limits for comments on written statements.

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*The Counsel for Mr. Yakimetz to the Legal Counsel of the United Nations*

25 February 1985.

I leave on March 1 1985 on official mission to several countries in Asia. This mission was postponed from last October in order to meet the time-limit of 14 December 1984, fixed by the President of the Court, for submission of Written Statements, and it cannot be postponed again. I shall be away until April 19. I should therefore be grateful if you would request the Court to extend until six weeks after my return the time-limit for submission of Comments on the Written Statements.

Mr. Sylvanus Tiewul has kindly agreed to act as liaison in this case during my absence. Would you please send all relevant material to him for transmission to me.

(Signed) Diana BOERNSTEIN,  
Counsel for Mr. Yakimetz.

## 27. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

5 March 1985.

By letter of 28 February 1985 I had the honour to acknowledge the receipt of your letter dated 26 February 1985 whereby, pursuant to Article 66, paragraph 2, of the Statute of the International Court of Justice, you transmitted to me a written statement on behalf of the Secretary-General concerning the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal* on which an advisory opinion has been requested of the Court, together with the views of the Applicant to whom the Judgement relates.

I now have the honour to acknowledge receipt of your letter of 28 February 1985 forwarding a request, dated 25 February 1985, submitted by counsel for the Applicant, in respect of the time-limit for comments on written statements, and indicating that the United Nations considers that it would not be prejudiced by the granting of that request.

I have further to inform you that, within the extended time-limit of 28 February 1985 fixed by the President of the Court, the Governments of the Union of Soviet Socialist Republics, Italy, Canada and the United States of America also submitted written statements in the above-mentioned case, pursuant to Article 66, paragraph 2, of the Statute of the Court.

The texts of the above-mentioned statements in the language in which they were submitted, which you may wish to make available to counsel for Mr. Yakimetz, are hereby communicated to you pursuant to Article 66, paragraph 4 (last sentence), of the Court's Statute and Article 105, paragraph 1, of the Rules of Court. I shall not fail to send you, in due course, the corresponding translations prepared in the Registry. Your attention is drawn to the fact that the communicated statements have not yet been made available to the public by the Court.

I wish also to inform you that the President, pursuant to Article 66, paragraph 4 (first sentence), of the Court's Statute and Article 105, paragraph 2 (a), of the Rules of Court, has decided to permit any State or organization having presented or transmitted a written statement to submit comments in writing on the statements made or transmitted by any other and has fixed 31 May 1985 as the time-limit for the submission of such comments.

The subsequent procedure having been reserved, I shall not fail to inform you in due course of such further decisions as may be taken by the Court in its regard.

28. THE REGISTRAR TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST  
REPUBLICS TO THE NETHERLANDS<sup>1</sup>

5 March 1985.

By a letter of 28 September 1984 the Deputy-Registrar informed Your Excellency that the United Nations Committee on Applications for Review of Administrative Tribunal Judgements had requested an advisory opinion of the

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<sup>1</sup> A communication in the same terms was also sent to the Minister for Foreign Affairs of Italy and to the Ambassadors of Canada and the United States of America to the Netherlands.

International Court of Justice concerning an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal* and that the President of the Court had considered the United Nations and its member States as likely to be able to furnish information on the question. You were also informed, by the same letter, that 14 December 1984 had been fixed as the time-limit for the submission of written statements and, by a letter of 30 November 1984, that that time-limit had been extended to 28 February 1985.

I now have the honour to inform you that, within the time-limit as thus extended, the United Nations submitted to the Court a written statement, comprising a statement on behalf of the Secretary-General and the views of the person to whom Judgement No. 333 of the Administrative Tribunal related, namely Mr. Vladimir Yakimetz, and that, in addition to the Government of the Union of Soviet Socialist Republics, those of Italy, Canada and the United States of America submitted written statements.

The texts of the above statements in the language in which they were submitted are hereby communicated to your Government pursuant to Article 66, paragraph 4 (last sentence), of the Court's Statute and Article 105, paragraph 1, of the Rules of Court. I shall not fail to make available in due course to your Government the corresponding translations. I am also enclosing the Introductory Note with which the Secretary-General of the United Nations has prefaced the dossier of documents likely to throw light upon the question on which an opinion is required (Statute, Art. 65, para. 2) and the table of contents of that dossier. Your kind attention is further drawn to the fact that the said statements and documents communicated to your Government have not yet been made available to the public by the Court.

I also have the honour to inform you that the President, pursuant to Article 66, paragraph 4 (first sentence), of the Court's Statute and Article 105, paragraph 2 (a), of the Rules of Court, has decided to permit any State or organization having presented or transmitted a written statement to submit comments in writing on the statement made or transmitted by any other and has fixed 31 May 1985 as the time-limit for the submission of such comments.

The subsequent procedure having been reserved, I shall not fail to inform you in due course of such decision as the Court may take in the matter.

**29. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS**

8 March 1985.

I have the honour to acknowledge receipt of thirty copies of the French translation of the written statement submitted on behalf of the Secretary-General and of thirty copies of the French translation of the statement setting forth the views of Mr. Yakimetz in the matter of the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, which were received in the Registry on 1 and 8 March 1985, respectively.

**30. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS**

17 April 1985.

In my letter of 5 March 1985 on the subject of the written statements filed in the case concerning an *Application for Review of Judgement No. 333 of the*

United Nations Administrative Tribunal I undertook to furnish you in due course with corresponding translations.

I have accordingly the honour to transmit to you herewith copies of an English translation of the written statement of Italy together with French translations of those filed respectively by the Union of Soviet Socialist Republics and by the United States of America. I would emphasize that these translations, prepared by the Registry for the use of Members of the Court, have no official character whatever. I should further recall that the written statement of Canada transmitted to you with the aforementioned letter was submitted in both English and French.

It will be recalled that the President of the Court has fixed 31 May 1985 as the time-limit for the submission of comments in writing on the statements made or transmitted by any State or organization. In that connection I would be grateful if you would kindly forward a copy of each translation to counsel for Mr. Yakimetz.

**31. THE REGISTRAR TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST  
REPUBLICS TO THE NETHERLANDS<sup>1</sup>**

17 April 1985.

In my letter of 5 March 1985 on the subject of the written statements filed in the case concerning an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal I* undertook to furnish Your Excellency in due course with corresponding translations.

I have accordingly the honour to transmit to you herewith copies of an English translation of the written statement of Italy together with French translations of those filed respectively by the Union of Soviet Socialist Republics and by the United States of America. I would emphasize that these translations, prepared by the Registry for the use of Members of the Court, have no official character whatever. I should further recall that the written statement of Canada transmitted to you with the aforementioned letter was submitted in both English and French.

Also transmitted with that letter were the English versions of the written statement of the Secretary-General of the United Nations (enclosing also a statement presented on behalf of the Applicant), and of the Introductory Note with which he had prefaced the dossier of documents likely to throw light upon the question on which an opinion is required (Statute, Art. 65, para. 2). I now take the opportunity of forwarding to you, in addition to the above-mentioned translations, the French versions of those documents.

It will be recalled that the President of the Court has fixed 31 May 1985 as the time-limit for the submission of comments in writing on the statements made or transmitted by any State or organization.

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<sup>1</sup> A communication in the same terms was also sent to the Minister for Foreign Affairs of Italy and to the Ambassadors of Canada and the United States of America to the Netherlands.

## 32. THE LEGAL COUNSEL OF THE UNITED NATIONS TO THE REGISTRAR

3 May 1985.

I have the honour to refer to your letter of 17 April 1985 which recalled that the President of the Court has fixed 31 May 1985 as the time-limit for the submission of comments in writing on the statements made by any State or organization in the case concerning an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

I have the honour to transmit to the Court a copy of a letter dated 26 April 1985, which I received on 1 May 1985, from Diana Boernstein, Esq., Counsel for Mr. Yakimetz, which requests that the time-limit for submitting comments be extended to the end of June because she has received a priority assignment concerning the African Drought Emergency. We would have no objections to the President favourably considering this request for an extension of the time-limit.

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*The Counsel for Mr. Yakimetz to the Legal Counsel  
of the United Nations*

26 April 1985.

*Application for Review of Judgement No. 333  
of the United Nations Administrative Tribunal*

I acknowledge the receipt, upon my return from Asia on April 22nd, of the written statements submitted pursuant to Article 66, paragraph 2, of the Statute of the Court in the above-named case. Two other sets of statements, forwarded to me in Rangoon and in Manila, failed to reach me. I note also that the President has set the time-limit for comments on the written statements as May 31, 1985.

With the consent of the Applicant, Mr. Yakimetz, and with regret, I would like to seek a further extension of the time-limit for submitting comments until the end of June. The reason for this request is a priority assignment concerning the African Drought Emergency. I understand that the Court's calendar is in any case very full at present, and therefore I believe that this further extension will not delay the consideration of the case.

## 33. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

*(telex)*

9 May 1985.

Have honour inform you that following Ms. Boernstein's letter, and noting absence of objection on part of Secretary-General, President of Court has extended time-limit under Article 66 (4) of Statute to Monday, 1 July 1985. A formal letter in this sense is being sent to Secretary-General and States concerned.

## 34. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

9 May 1985.

With reference to the advisory proceedings on an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, I have the honour to acknowledge receipt of your communication of 3 May 1985 transmitting a copy of a letter dated 26 April 1985 by which counsel for Mr. Yakimetz seeks an extension of time-limit, and indicating that the Secretary-General would have no objection to such an extension.

I am to inform you, accordingly, that the President of the Court, after consideration, has extended from 31 May 1985 to 1 July 1985 the time-limit within which States or organizations having presented or transmitted written statements may submit written comments on any written statement presented or transmitted by any other. I shall be grateful if you will kindly convey this decision to counsel for Mr. Yakimetz.

The subsequent procedure remaining reserved, I shall not fail to inform you of such further decisions as may be taken in the proceedings.

35. THE REGISTRAR TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE NETHERLANDS<sup>1</sup>

9 May 1985.

With reference to the advisory proceedings on an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, and further to my letters of 5 March and 17 April 1985, I have the honour to inform you that the President of the Court has extended from 31 May to 1 July 1985 the time-limit within which any State or organization having presented or transmitted a written statement may, pursuant to Article 66, paragraph 4, of the Statute, submit comments in writing on the statement made or transmitted by any other.

The President has taken this action following the receipt from the Secretary-General of a letter transmitting another in which a wish for such extension is expressed by counsel for the person to whom the above-mentioned Judgement No. 333 relates, and indicating that the Secretary-General would have no objection.

The subsequent procedure having been reserved, I shall not fail to inform you in due course of such further decisions as may be taken in the proceedings.

## 36. THE AMBASSADOR OF CANADA TO THE NETHERLANDS TO THE REGISTRAR

30 May 1985.

I refer to your letter of 9 May 1985, concerning the advisory proceedings on an *Application for Review of Judgement No. 333 of the United Nations*

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<sup>1</sup> A communication in the same terms was also sent to the Minister for Foreign Affairs of Italy and to the Ambassadors of Canada and the United States of America to the Netherlands.



*Administrative Tribunal.* I have been asked to inform you that Canada does not intend to submit another written communication on this matter. The Canadian Government would appreciate receiving copies, in due course, of any further submission on this subject which might be sent to the Court.

37. THE REGISTRAR TO THE AMBASSADOR OF CANADA TO  
THE NETHERLANDS

6 June 1985.

I have the honour to acknowledge receipt of the letter of 30 May 1985 whereby your Excellency has been good enough to inform me that Canada does not intend to submit any further written communication on the subject of the advisory proceedings concerning an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal.*

I shall not fail to keep the Canadian Government informed of the subsequent procedure in this case and, in particular, to transmit to it copies of any further submissions therein made, as you request.

38. THE LEGAL ADVISER OF THE UNITED STATES DEPARTMENT OF STATE TO THE  
REGISTRAR

27 June 1985.

I have the honor to refer to your letter to Ambassador Bremer of 5 March 1985, in which you communicated the decision of the President of the Court to invite comments on the statements submitted by States and interested parties regarding the request by the Committee on Applications for the Review of Administrative Tribunal Judgements for an advisory opinion with respect to Tribunal Judgement No. 333 (*Yakimetz*). I also refer to the Court's subsequent order extending the time-limit for the submission of comments to 1 July 1985.

The comments of the United States of America are enclosed.

(Signed) Abraham D. SOFAER.

39. THE LEGAL COUNSEL OF THE UNITED NATIONS  
TO THE REGISTRAR

28 June 1985.

With reference to the advisory proceedings on an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, and in respect of your letters dated 5 March and 9 May 1985, I have the honour to advise that thirty (30) copies in English and French of comments on behalf of the Secretary-General and thirty (30) copies in the original languages (in part

English and in part French) of comments on the part of the Applicant are being sent to you for transmission to the Court.

Thirty (30) copies of translations of the Applicant's comments will be dispatched as soon as possible.

40. THE FIRST SECRETARY TO THE LEGAL COUNSEL  
OF THE UNITED NATIONS

5 July 1985.

I have the honour to acknowledge receipt with thanks of your letter of 28 June 1985 concerning the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, and to confirm also receipt of the 30 copies of the comments on behalf of the Secretary-General and of the comments on the part of the Applicant. I note that translations of the latter document will be dispatched as soon as possible.

41. THE FIRST SECRETARY TO THE SECRETARY-GENERAL  
OF THE UNITED NATIONS

8 July 1985.

I have the honour to transmit to Your Excellency herewith two copies of the written statements submitted by the Government of the United States of America, in accordance with Article 66, paragraph 4, of the Statute of the Court, in the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, one copy of which you may wish to make available to counsel for Mr. Yakimetz.

42. THE FIRST SECRETARY TO THE LEGAL ADVISER OF THE UNITED STATES  
DEPARTMENT OF STATE

8 July 1985.

I have the honour to acknowledge receipt of your letter of 27 June 1985, transmitting the written comments of the Government of the United States on the written statements submitted to the Court pursuant to Article 66, paragraph 2, of the Statute of the Court in the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

I now have the honour to transmit to you herewith copies of the written comments made under Article 66, paragraph 4, of the Statute on behalf of the Secretary-General of the United Nations, including comments by Mr. Vladimir Yakimetz, the person to whom Administrative Tribunal Judgement No. 333 related.

These comments are transmitted in the language in which they were submitted to the Court; I shall not fail to make available to your Government in due course the corresponding translations.

The subsequent procedure in the case remains reserved.

43. THE FIRST SECRETARY TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE NETHERLANDS<sup>1</sup>

8 July 1985.

I have the honour to refer to the Registrar's letter of 5 March 1985, with which were transmitted to Your Excellency copies of the written statements submitted to the Court pursuant to Article 66, paragraph 2, of the Statute of the Court in the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*. In that letter mention was made of the time-limit fixed for comments in writing on such written statements, pursuant to Article 66, paragraph 4, of the Statute, and by a letter of 9 May 1985 the Registrar informed you of the extension of that time-limit to 1 July 1985.

I now have the honour to transmit to Your Excellency herewith copies of the written comments made on behalf of the Secretary-General of the United Nations, including comments by Mr. Vladimir Yakimetz, the person to whom Administrative Tribunal Judgement No. 333 related, and the written comments of the Government of the United States of America.

These comments are transmitted in the language in which they were submitted to the Court; I shall not fail to make available to your Government in due course the corresponding translations.

The subsequent procedure in the case remains reserved.

44. THE REGISTRAR TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE NETHERLANDS<sup>2</sup>

19 July 1985.

With reference to the Registry's letter of 8 July 1985, transmitting to you the written comments submitted pursuant to Article 66, paragraph 4, of the Statute of the Court in the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, I now have the honour to transmit to Your Excellency herewith the French translation, prepared by the Registry, of the comments of the Government of the United States of America.

45. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

25 July 1985.

With reference to the Registry's letter of 8 July 1985, transmitting the written comments submitted pursuant to Article 66, paragraph 4, of the Statute of the Court in the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, I now have the honour to transmit

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<sup>1</sup> A communication in the same terms was also sent to the Minister for Foreign Affairs of Italy and to the Ambassador of Canada to the Netherlands.

<sup>2</sup> A communication in the same terms was also sent to the Minister for Foreign Affairs of Italy, to the Legal Adviser of the United States Department of State and to the Ambassador of Canada to the Netherlands.

to you herewith two copies of the French translation, prepared by the Registry, of the comments of the Government of the United States of America. You may wish to make available one copy to counsel for Mr. Yakimetz.

46. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

2 August 1985.

I have the honour to acknowledge receipt with thanks of 34 copies of the translations of the comments submitted by the Applicant, Mr. Vladimir Yakimetz, in the case concerning the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

47. THE REGISTRAR TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST  
REPUBLICS TO THE NETHERLANDS<sup>1</sup>

2 August 1985.

Further to the Registry's letter of 8 July 1985, I have the honour to transmit to Your Excellency herewith the translations, provided by the United Nations Secretariat, of the written comments submitted by Mr. Vladimir Yakimetz in the case concerning the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

48. THE LEGAL COUNSEL OF THE UNITED NATIONS TO THE REGISTRAR

4 March 1986.

I have the honour to transmit herewith copy of a communication dated 26 February 1986 from the Counsel for Applicant in *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

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*The Counsel for Mr. Yakimetz to the Legal Counsel  
of the United Nations*

26 February 1986.

Mr. Vladimir Yakimetz attached, as Annex B to his comments on the written statements submitted to the International Court of Justice in his case, an

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<sup>1</sup> A communication in the same terms was also sent to the Minister for Foreign Affairs of Italy, to the Legal Adviser of the United States Department of State and the Ambassador of Canada to the Netherlands.

analysis by Professor Alain Pellet at the request of the Co-ordinating Committee for Independent Staff Unions and Associations of the United Nations system. Professor Pellet's analysis was submitted in French, and an English version was subsequently prepared by the United Nations for transmittal to the International Court.

Professor Pellet, due to pressure of work, was not immediately able to check the English translation to make sure it accurately represented his text. He has now done so. He apologizes for the delay, and requests that the attached list of corrigenda<sup>1</sup> be submitted to the Court.

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LEGAL OPINION

by Alain Pellet, on the validity of Judgement No. 333 of the Administrative Tribunal of the United Nations with respect to the Charter of the United Nations and the fundamental principles of international civil service law.

*Corrigenda*<sup>1</sup>

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|--|--|
| p. 5, line 1.                                    | "It must also be noted" <i>should read</i> : " <i>On the other hand</i> , it must be noted . . ."  |
| p. 9, line 6.                                    | "Not without taking precautions can this definition be transposed . . ." <i>should read</i> : "This definition <i>can be</i> transposed, <i>though not without precautions</i> , . . ."  |
| p. 9, para. 12,<br>3 lines before<br>end of page | ". . . it has erroneously substituted a competence residing in . . ." <i>should read</i> : ". . . it has erroneously <i>admitted that the Secretary-General could surrender</i> the discretionary power . . ." <sup>2</sup>  |
| p. 11, 4 lines<br>before end<br>of page          | ". . . and especially as the second sentence" <i>should read</i> : ". . . <i>although</i> the second sentence"   |
| p. 12, para. 15,<br>line 5                       | ". . . erroneously substituted a competence connected with . . ." <i>should read</i> : ". . . <i>erroneously surrendered</i> the discretionary power available to him . . ." <sup>3</sup>  |
| p. 20, para. 22,<br>lines 4 to 6                 | ". . . or whether, as seems to be admitted . . . ; or whether this reasoning constitutes support of the finding and is analysed to be . . ." <i>should read</i> ". . . <i>either</i> , as seems to be admitted . . . ; <i>or</i> this reasoning constitutes support of the finding and must be analysed to be . . ." |
| p. 20, para. 23,<br>line 11                      | ". . . elsewhere but . . ." <i>should read</i> : ". . . elsewhere. But . . ."  |

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<sup>1</sup> These corrections have been incorporated into the text. [*Note by the Registry.*]

<sup>2</sup> « Il a ainsi substitué, à tort, une compétence liée au pouvoir discrétionnaire dont il dispose. »

<sup>3</sup> « Le Tribunal a substitué, à tort, une compétence liée au pouvoir discrétionnaire reconnu par la Charte dans ce domaine au Secrétaire général. » L'expression « compétence liée » ne semble pas avoir d'équivalent en anglais.

## 49. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

7 April 1986.

I have the honour to acknowledge the transmission, with your letter of 4 March 1986, of a communication dated 26 February 1986 from the Counsel for the Applicant in the advisory proceedings on an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

50. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS<sup>1</sup>

3 November 1986.

With reference to the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, I have the honour to inform you that the Court has decided not to hold any public sitting for the purposes of hearing oral statements in the case.

51. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN<sup>2</sup>

4 novembre 1986.

Le 28 septembre 1984, le Greffier adjoint vous a adressé une lettre, qui constituait la communication spéciale et directe visée à l'article 66, paragraphe 2, du Statut de la Cour, au sujet de l'avis consultatif qui a été requis de la Cour dans l'affaire de la *Demande de réformation du jugement n° 333 du Tribunal administratif des Nations Unies*. Par cette lettre, vous avez été informé que l'Organisation des Nations Unies et ses Etats Membres avaient été jugés par le Président de la Cour susceptibles de fournir des renseignements sur la question et que, par ordonnance en date du 13 septembre 1984, le Président avait fixé au 14 décembre 1984 la date d'expiration du délai pour le dépôt d'exposés écrits. Ultérieurement, par une lettre du 30 novembre 1984, je vous ai informé que ce délai avait été prorogé par le Président au 28 février 1985.

J'ai l'honneur de vous informer maintenant que le Président a ensuite décidé, conformément à l'article 66, paragraphe 4 (première phrase), du Statut de la Cour et à l'article 105, paragraphe 2 a), du Règlement de la Cour, d'admettre tout Etat ou toute organisation ayant présenté ou transmis un exposé écrit à soumettre, avant le 31 mai 1985, des observations écrites sur tout exposé présenté ou transmis par un autre Etat ou une autre organisation; plus tard, le Président a prorogé ce délai au 1<sup>er</sup> juillet 1985.

Enfin, je dois vous aviser que, comme l'y autorise l'article 105 de son Règlement, la Cour a décidé de ne pas tenir en l'espèce d'audiences publiques consacrées à des exposés oraux. En outre, conformément à l'article 106 de son Règlement, elle a décidé que les exposés écrits et les documents annexés ainsi que les observations écrites sur ces exposés seraient rendus accessibles aux Etats Membres de l'Organisation des Nations Unies mais non au public.

<sup>1</sup> A communication in the same terms was also sent to the Minister for Foreign Affairs of Italy, to the Legal Adviser of the United States Department of State and to the Ambassadors of Canada and the Union of Soviet Socialist Republics to the Netherlands.

<sup>2</sup> Une communication analogue a été adressée aux autres Etats admis à ester devant la Cour.

En conséquence je vous envoie sous pli séparé des copies des exposés écrits reçus dans le délai prorogé au 28 février 1985, à savoir d'une part un exposé écrit présenté par l'Organisation des Nations Unies, lequel comprend un exposé rédigé au nom du Secrétaire général et un exposé des vues de M. Vladimir Yakimetz, personne que concerne le jugement n° 333 du Tribunal administratif des Nations Unies, et d'autre part des exposés écrits des Gouvernements du Canada, des Etats-Unis d'Amérique, de l'Italie et de l'Union des Républiques socialistes soviétiques.

Sous pli séparé je vous envoie aussi des copies des exposés écrits reçus dans le délai prorogé au 1<sup>er</sup> juillet 1985, à savoir des exposés présentés au nom du Secrétaire général de l'Organisation des Nations Unies et de M. Yakimetz et un exposé du Gouvernement des Etats-Unis d'Amérique.

52. THE LEGAL COUNSEL OF THE UNITED NATIONS TO THE REGISTRAR<sup>1</sup>

20 November 1986.

I refer to your letter of 23 October 1986 by which you advised me of apparent defects in paragraph 19 of the English version of the comments of the Applicant in the advisory proceedings on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*. You requested that the correct text of that paragraph be supplied to you and, in response to that request, I enclose a copy of a letter dated 11 November 1986 from Counsel for Applicant, together with which she transmitted to us a copy of the correct text.

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*The Counsel for Mr. Yakimetz to the Legal Counsel  
of the United Nations*

11 November 1986.

I attach a copy of page 8 of the Comments of the Applicant in relation to the advisory proceedings on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, which contains part of paragraph 19. The last line of the page appears to have been omitted from the version sent to the International Court of Justice.

I would be grateful if you would transmit the corrected full page to the Court, and convey my apologies for not having noticed before that the line was missing from the text as reproduced.

53. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS OF ANTIGUA AND BARBUDA<sup>1</sup>

15 December 1986.

I have the honour to refer to my letter of 4 November 1986 in which I informed you that I was forwarding to you under separate cover copies of the

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<sup>1</sup> A communication in the same terms was also sent to the Minister of Foreign Affairs of Italy, to the Legal Adviser of the United States Department of State and to the Ambassador of Canada to the Netherlands.

written statements received by the Court, and of the written comments submitted on those statements on behalf of the Secretary-General of the United Nations and of Mr. Yakimetz, and by the Government of the United States of America, in respect of the request for an advisory opinion on the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

The version originally supplied to the Court of one of those documents, "Comments of the Applicant Mr. Vladimir Yakimetz on the written statements submitted to the International Court of Justice in the matter of the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*" was incomplete, one line of paragraph 19 having been omitted at the bottom of page 8. I am therefore forwarding to you herewith the corrected text of that page as transmitted by Counsel for the Applicant to the Legal Counsel of the United Nations, and supplied by the latter to the Court at my request.

54. THE REGISTRAR TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST  
REPUBLICS TO THE NETHERLANDS<sup>1</sup>

23 December 1986.

I have the honour to refer to the letter of 8 July 1985 by which I transmitted to Your Excellency, *inter alia*, copies of the written comments of the applicant for review, as submitted by the Secretary-General of the United Nations in the case concerning an *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

In the version of those comments originally supplied to the Court, a line of text had been omitted at the foot of page 8. I therefore forward to you herewith the full text of that page as provided to the Legal Counsel of the United Nations and communicated to the Court at my request.

55. THE REGISTRAR TO THE LEGAL COUNSEL OF THE UNITED NATIONS

6 March 1987.

I have the honour to refer to the request for advisory opinion addressed to the Court by the Committee on Applications for Review of Administrative Tribunal on 28 August 1984 (*Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*), which is at present being examined by the Court, and to the Secretary-General's letter of 26 February 1985 designating you as his representative in these proceedings. For the purpose of that examination I am to ask the Secretary-General to supply certain background information to supplement that contained in the dossier of documents already submitted to the Court by him under Article 65, paragraph 2, of the Statute of the Court.

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<sup>1</sup> A similar communication was also sent to States who had received the English version of the comments of the Applicant Mr. Yakimetz on the written statements submitted to the International Court of Justice.



The information requested is as follows: taking into account the provision of United Nations Staff Regulation 4.4,

(1) What has so far been the practice with regard to the implementation within the Secretariat of the United Nations of paragraph 5 of section IV of resolution 37/126 adopted by the General Assembly on 17 December 1982?

(2) How many staff members within the Secretariat have so far received a career appointment in the light of the aforesaid paragraph?

(3) Of the Staff members referred to in the second question above, how many had been serving on secondment from (a) another international organization, (b) a national administration, prior to receiving a career appointment in the Secretariat?

(4) Can similar detailed information be given as to the practice prior to 1982 as to consideration of staff members on fixed-term appointment for career appointment, to supplement the background documentation in Part II of the dossier?

It would be appreciated if this information could be supplied to the Court as soon as conveniently possible.

#### 56. THE LEGAL COUNSEL OF THE UNITED NATIONS TO THE REGISTRAR

22 April 1987.

I have the honour to refer to your letter of 6 March 1987 which requested certain information with regard to the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*. The questions and the answers to them are set out below.

##### *Question 1*

What has so far been the practice with regard to the implementation within the Secretariat of the United Nations of paragraph 5 of section IV of resolution 37/126 adopted by the General Assembly on 17 December 1982?

##### *Answer*

Resolution 37/126, section IV, paragraph 5, has, at least so far, not been transformed into a formal procedure for inclusion in the Staff Rules. It is, however, applied in that, in practice, staff members at the Professional and Principal Officer levels on fixed-term appointments receive before, or upon completion of five years of continuing good service, consideration for a career or another type of new appointment, as set out below:

Requests for new appointments are initiated by programme managers to ensure that the requirement of continuing good service is met; this is done normally in the context of the bi-annual review of fixed-term appointments. Cases are then examined on their own merits by the Office of Human Resources Management (OHRM: formerly the Office of Personnel Services) and when supported by the latter are submitted to the relevant appointment and promotion body for review and advice before a final decision is made by the Secretary-General or on his behalf. If the examination by OHRM leads to a negative result, the case is not referred to the appointment and promotion body. However, even in such situations, the matter may be considered by the Secretary-General himself. This happens

rarely, but occurred in the case of Mr. Yakimetz: see paragraph 28 of the written statement submitted on behalf of the Secretary-General.

In this respect, attention is invited to the case of Mr. Liviu Bota who, after his secondment from the Romanian Government was not renewed in late 1986, received, upon consideration by the Secretary-General, a new fixed-term appointment.

Staff members assigned to posts subject to geographical distribution and whose countries are over-represented are equally eligible for career appointments but not before they have served continuously for at least five years on fixed-term appointments. This practice in effect removes, after five years, the bar that the over-representation factor otherwise presents to career appointments.

It has to be noted, however, that at present the reduction of staff as mandated by the General Assembly in view of the current financial crisis had led to a situation in which the conversion from fixed-term to career appointments has been considerably slowed down.

#### *Question 2*

How many staff members within the Secretariat have so far received a career appointment in the light of the aforesaid paragraph?

#### *Answer*

It would be difficult to answer this question within a reasonable period of time because statistics other than those generated by computer would have to be compiled manually by reviewing the records of the appointment and promotion bodies since 1982. Computer-generated statistics concerning staff whose fixed-term appointments have been converted into career appointments are, however, available only with respect to staff on board at present (the latest statistics refer to 31 January 1986) and do not show whether the conversion into career appointments took place before 1982 or after. Nevertheless, they are attached in Tables II (a) and II (b). They indicate that of the 1,459 staff members on career appointments who were formerly on fixed-term appointments, some 1,214 (i.e. 83%), had periods of service of five years or less.

#### *Question 3*

Of the staff members referred to in the second question above, how many had been serving on secondment from (a) another international organization, (b) a national administration, prior to receiving a career appointment in the Secretariat?

#### *Answer*

There are no computer-generated statistics showing how many staff on career contracts were initially on fixed-term appointments on secondment from other international organizations. There are relatively few such officials.

Tables IV (a) and IV (b) provide statistics as of 31 January 1986 concerning staff on career appointments who previously held fixed-term appointments on secondment from a national administration. There were 16 such officials on board as of 31 January 1986. It should be noted in this context that, as recalled in the Answer to Question 1 above, Mr. Liviu Bota, whose secondment had expired, was thereupon given a fixed-term, rather than a career appointment; this case is, therefore, not included in the above figures.

TABLE I (a). FIXED-TERM STAFF IN POST SUBJECT TO GEOGRAPHICAL DISTRIBUTION, BY REGION AND LENGTH OF SERVICE  
(As of 31 January 1986)

<i>Years of Service</i>	<i>Africa</i>	<i>Asia and the Pacific</i>	<i>Europe (Eastern)</i>	<i>Europe (Western)</i>	<i>Latin America</i>	<i>Middle East</i>	<i>N. America and Caribbean</i>	<i>Others</i>	<i>Total</i>
up to 5	134	125	292	162	61	44	112	7	937
6-10	31	31	10	24	10	9	20	1	136
11+	19	9	4	24	12	4	8	1	81
TOTAL:	184	165	306	210	83	57	140	9	1 154

TABLE I (b). FIXED-TERM STAFF IN POST SUBJECT TO GEOGRAPHICAL DISTRIBUTION, BY REGION AND LENGTH OF SERVICE  
(As of 31 January 1986)

<i>Years of Service</i>	<i>Africa</i>	<i>Asia and the Pacific</i>	<i>Europe (Eastern)</i>	<i>Europe (Western)</i>	<i>Latin America</i>	<i>Middle East</i>	<i>N. America and Caribbean</i>	<i>Others</i>	<i>Total</i>
up to 1	27	49	108	67	21	18	33	3	326
2	19	22	47	26	13	7	32	1	167
3	31	17	62	30	14	4	16	-	174
4	34	22	59	19	8	5	20	3	170
5	23	15	16	20	5	10	11	-	100
6	13	9	6	6	1	2	4	1	42
7	7	12	-	8	3	3	6	-	39
8	6	7	2	6	2	3	6	-	32
9	3	1	1	-	-	-	1	-	6
10	2	2	1	4	4	1	3	-	17
11+	19	9	4	24	12	4	8	1	81
TOTAL:	184	165	306	210	83	57	140	9	1 154

TABLE II (a). GEOGRAPHICAL STAFF ON CAREER CONTRACTS, BY REGION AND LENGTH OF SERVICE AS NON-CAREER  
(As of 31 January 1986)

Years of Service	Africa	Asia and the Pacific	Europe (Eastern)	Europe (Western)	Latin America	Middle East	N. America and Caribbean	Others	Total
up to 5	180	212	4	283	105	54	362	14	1 214
6-10	53	26	2	58	27	19	28	2	215
11+	7	3	-	6	5	4	5	-	30
TOTAL:	240	241	6	347	137	77	395	16	1 459

TABLE II (b). GEOGRAPHICAL STAFF ON CAREER CONTRACTS, BY REGION AND LENGTH OF SERVICE AS NON-CAREER  
(As of 31 January 1986)

Years of Service	Africa	Asia and the Pacific	Europe (Eastern)	Europe (Western)	Latin America	Middle East	N. America and Caribbean	Others	Total
up to 1	38	112	-	99	47	15	175	7	493
2	56	46	2	70	30	8	88	2	302
3	28	15	1	29	11	9	39	-	132
4	31	18	1	35	5	8	38	2	138
5	27	21	-	50	12	14	22	3	149
6	24	8	1	21	7	6	9	1	77
7	11	7	-	15	6	6	9	-	54
8	10	5	1	13	6	2	4	1	42
9	4	5	-	3	5	3	2	-	22
10	4	1	-	6	3	2	4	-	20
11+	7	3	-	6	5	4	5	-	30
TOTAL:	240	241	6	347	137	77	395	16	1 459

TABLE III (a). FIXED-TERM STAFF, in POST SUBJECT TO GEOGRAPHICAL DISTRIBUTION ON SECONDMENT FROM THEIR GOVERNMENT, BY REGION AND LENGTH OF SERVICE  
(As of 31 January 1986)

Years of Service	Africa	Asia and the Pacific	Europe (Eastern)	Europe (Western)	Latin America	Middle East	N. America and Caribbean	Others	Total
up to 5	9	31	292	16	4	2	11	-	365
6-10	9	12	10	6	-	-	2	-	39
11+	7	1	4	9	2	2	2	-	27
TOTAL:	25	44	306	31	6	4	15	-	431

TABLE III (b). FIXED-TERM STAFF IN POST SUBJECT TO GEOGRAPHICAL DISTRIBUTION ON SECONDMENT FROM THEIR GOVERNMENT, BY REGION AND LENGTH OF SERVICE  
(As of 31 January 1986)

Years of Service	Africa	Asia and the Pacific	Europe (Eastern)	Europe (Western)	Latin America	Middle East	N. America and Caribbean	Others	Total
up to 1	2	7	108	4	1	1	2	-	125
2	-	6	47	3	1	-	4	-	61
3	1	9	62	4	-	1	-	-	77
4	3	7	59	2	2	-	2	-	75
5	3	2	16	3	-	-	3	-	27
6	3	5	6	-	-	-	-	-	14
7	2	4	-	2	-	-	1	-	9
8	2	2	2	2	-	-	1	-	9
9	1	-	1	-	-	-	-	-	2
10	1	1	1	2	-	-	-	-	5
11+	7	1	4	9	2	2	2	-	27
TOTAL:	25	44	306	31	6	4	15	-	431

TABLE IV (a). GEOGRAPHICAL STAFF ON CAREER CONTRACTS PREVIOUSLY ON SECONDMENT FROM THEIR GOVERNMENT, BY REGION AND LENGTH OF SERVICE AS NON-CAREER  
(As of 31 January 1986)

Years of Service	Africa	Asia and the Pacific	Europe (Eastern)	Europe (Western)	Latin America	Middle East	N. America and Caribbean	Others	Total
up to 5	1	2	1	-	-	2	1	1	8
6-10	5	-	-	-	-	-	2	-	7
11+	1	-	-	-	-	-	-	-	1
TOTAL:	7	2	1	-	-	2	3	1	16

TABLE IV (b). GEOGRAPHICAL STAFF ON CAREER CONTRACTS, PREVIOUSLY ON SECONDMENT FROM THEIR GOVERNMENT, BY REGION AND LENGTH OF SERVICE AS NON-CAREER  
(As of 31 January 1986)

Years of Service	Africa	Asia and the Pacific	Europe (Eastern)	Europe (Western)	Latin America	Middle East	N. America and Caribbean	Others	Total
up to 1	-	-	-	-	-	-	-	-	-
2	-	1	-	-	-	1	-	-	2
3	-	-	-	-	-	-	-	-	-
4	1	-	1	-	-	-	1	-	3
5	-	1	-	-	-	1	-	1	3
6	2	-	-	-	-	-	-	-	2
7	2	-	-	-	-	-	-	-	2
8	1	-	-	-	-	-	2	-	3
9	-	-	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-	-	-
11+	1	-	-	-	-	-	-	-	1
TOTAL:	7	2	1	-	-	2	3	1	16

Source: Planning and Information Section, Personnel Data Unit, OHRM, 23 March 1987.

Table III(a) shows, as of 31 January 1986, the number of staff on fixed-term appointments on secondment from national service and Table III(b) shows that 85% of these staff have served for less than five years.

*Question 4*

Can similar detailed information be given as to the practice prior to 1982 as to consideration of staff members on fixed-term appointment for career appointment, to supplement the background documentation in Part II of the dossier?

*Answer*

The figures given in Table II(a) and II(b) seem to indicate that even prior to the adoption of resolution 37/126 and the creation of a right to consideration, in actual practice the usual period for the conversion of fixed-term contracts into career appointments was, in the great majority of cases, less than five years.

57. THE REGISTRAR TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST  
REPUBLICS TO THE NETHERLANDS<sup>1</sup>

22 May 1987.

I have the honour to inform you, pursuant to Article 67 of the Statute of the Court and Article 108 of the Rules of Court, that a public sitting of the Court will be held on Wednesday 27 May 1987 at 3 p.m. for the purpose of delivering in open court the Advisory Opinion requested of the Court by the Committee on Application for Review of Administrative Tribunal Judgements in the case of the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*, in respect of which the Government of the Union of Soviet Socialist Republics filed a written statement pursuant to Article 66 of the Court's Statute.

(Signed) Eduardo VALENCIA-OSPINA.

58. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

(telex)

25 May 1987.

I have the honour to inform you, pursuant to Article 67 of the Statute of the Court and Article 108 of the Rules of Court, that a public sitting of the Court will be held on Wednesday, 27 May 1987, at 3 p.m., for the purpose of delivering in open court the Advisory Opinion requested of the Court by the Committee on Application for Review of Administrative Tribunal Judgements in the case of the *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

<sup>1</sup> A similar communication was also sent to the Minister for Foreign Affairs of Italy, to the Legal Adviser of the United States Department of State and the Ambassador of Canada to the Netherlands.

## 59. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

27 May 1987.

I have the honour to send you herewith five plain copies of the Advisory Opinion given today by the International Court of Justice in the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

I shall have the pleasure of delivering to you in person the sealed copy of the Opinion referred to in Article 109 of the Rules of Court, when I arrive at Headquarters next week.

60. THE REGISTRAR TO THE AMBASSADOR OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE NETHERLANDS <sup>1</sup>

27 May 1987.

I have the honour to send you herewith, in accordance with Article 109 of the Rules of Court, a copy of the Advisory Opinion given today by the International Court of Justice in the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

61. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN <sup>2</sup>

12 août 1987.

Conformément à l'article 109 du Règlement de la Cour, le Greffier de la Cour internationale de Justice a l'honneur de transmettre sous ce pli un exemplaire de l'avis consultatif rendu par la Cour le 27 mai 1987 au sujet de la *Demande de réformation du jugement n° 333 du Tribunal administratif des Nations Unies*.

D'autres exemplaires seront expédiés ultérieurement par la voie ordinaire.

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<sup>1</sup> A similar communication was also sent to the Minister for Foreign Affairs of Italy, to the Legal Adviser of the United States Department of State and the Ambassador of Canada to the Netherlands.

<sup>2</sup> Une communication analogue a été adressée aux autres Etats admis à ester devant la Cour.