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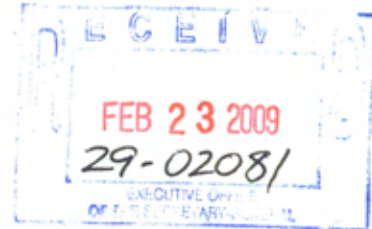
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23 February 2009

Excellency,

I wish to refer to our recent conversations concerning the views and recommendations made by the Internal Justice Council ("IJC") to the General Assembly, with respect to the newly established United Nations Dispute Tribunal and the United Nations Appeals Tribunal. You had, in particular, expressed concerns about the number of candidates recommended by the IJC for these positions who are fluent in French.

At the outset, I wish to point out that the IJC was established pursuant to General Assembly resolution 62/228 of 22 December 2007 in order to "help to ensure independence, professionalism and accountability in the system of administration of justice." As a subsidiary body of the General Assembly, the IJC was tasked with, *inter alia*, providing "its views and recommendations to the General Assembly on two or three candidates for each vacancy in the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, with due regard to geographical distribution." Pursuant to resolution 62/228, the IJC reports to the General Assembly and its views and recommendations on candidates for the two Tribunals are contained in its report to the Assembly dated 16 October 2008 (A/63/489).

It is therefore important to emphasize that the Secretary-General has, consistent with the resolution establishing the IJC, played no role either in the deliberations of the IJC or in the views and recommendations contained in its report. I am therefore not in a position to speak on the IJC's behalf or to respond to questions or comments concerning its views and recommendations.

His Excellency
Mr. Jan K.F. Grauls
Permanent Representative of Belgium
to the United Nations
New York

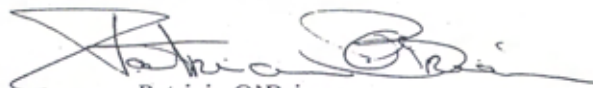
As to the history surrounding the establishment of the new system for the administration of justice, the General Assembly by resolution 62/228 approved only three full-time judges and two half-time judges for the UNDT, as opposed to the five full-time judges recommended by the Redesign Panel in its report (A/61/205) and the nine full-time judges (to sit in panels of three) proposed by the Secretary-General in his reports (A/61/758 and A/62/294). In making his proposal for panels of three judges, the Secretary-General specifically noted that although national courts may have cases heard by a single judge at the first level, such a model would be inappropriate for an international administrative tribunal because "questions of disparate legal traditions and diverse cultural and linguistic backgrounds do not arise in national courts." (A/62/294, para. 72.) Had the Secretary-General's proposal been approved, it would have been possible to ensure a linguistic balance as well as a representation of civil law and common law systems on the panels for each location where the UNDT is established.

From the views and recommendations contained in the IJC report, it would appear that the IJC considered French to be essential for the full-time UNDT judge in Geneva. The IJC report accordingly indicates that the two candidates recommended for that position are either fluent in French or have a working knowledge of that language. The two candidates recommended for the full-time UNDT judge in New York are both fluent in English. Of the two candidates recommended for the full-time UNDT judge in Nairobi, one is fluent in French and English and the other in English.

Furthermore, of the 24 candidates recommended by the IJC for both Tribunals, 10 candidates have indicated that they are either fluent in French or have a working knowledge of French. Seven additional candidates have indicated that they have a basic knowledge of French.

Should your Government have further questions or comments concerning the IJC report, I would recommend that you communicate them directly to the Chair of the IJC, Justice Kate O'Regan who is copied to this letter.

Please accept, Excellency, the assurances of my highest consideration.



Patricia O'Brien
Under-Secretary-General for Legal Affairs
The Legal Counsel

cc: The Deputy Secretary-General
Justice O'Regan