With respect to suspensions of action, the Secretary General in his report noted that "[t]he majority of cases in the formal system continue to relate to non-selection, non-promotion and other appointment-related decisions, and to separation from service." These are precisely the disputes as to which the Dispute Tribunal lacks the authority to order a suspension of action after the management evaluation is complete. Going beyond this authority - in this, the largest class of cases - cannot but have efficiency and resource implications. Indeed, the Secretary General notes that in 2013 the Dispute Tribunal received 109 suspension-of-action applications, which he said, "contributed significantly to the workload of the Dispute Tribunal."

Over the last several years, the Dispute Tribunal has persistently ordered suspensions of
action beyond its authority to do so. This - it seems - has been closely related to the long-running debate about whether interlocutory decisions (such as ultra vires suspensions of action) should be appealable and whether such decisions should be stayed during the pendency of an appeal (or until the time for appeal has expired).

The Internal Justice Council highlights the Appeals Tribunal's recent decision in the
Igbinedion case, which holds that the Dispute Tribunal "acted unlawfully" by ordering suspension of action in a case involving non-renewal of appointment. The Internal Justice Council goes on to urge that no change be made to the existing process for handling interlocutory appeals, with appeals permitted under certain circumstances but without an automatic stay of the decision being appealed. While we share the hope of the Internal Justice Council that the Igbinedion

moral, as opposed to exemplary, there must be a finding of harm. The jurisprudence of the Tribunals, however, does not draw this clear line.

Addressing a few of the other issues raised in the Secretary General's report, the United
States supports the proposed amendment to the Statute of the Appeals Tribunal relating to qualifications of judges and agrees that such an amendment might also be considered with respect to the Dispute Tribunal. We also agree with the proposal made by the Secretary General with respect to the immunity of judges of the Dispute and Appeals Tribunals.

With respect to the proposed code of professional conduct for external legal
representatives, we would be interested in understanding better the problem this would be meant to address. Counsel who are authorized to practice law in a national jurisdiction would presumably already be covered by applicable national rules of professional conduct, which might or might not be entirely consistent with the proposed code. Further, if the Code is principally meant to address former staff members designated to represent individuals before the Tribunals, it might create false expectations, for instance regarding the extent to which the duty of confidentiality laid out in Article 5 would be respected by national courts. It is also unclear what recourse is contemplated for breach of the Code, in particular for breach of Article 6 - a point also made by the judges of the Dispute Tribunal in their memorandum appended to the Internal Justice Council's report, arguing in favor of a single code of conduct.

With regard to the proposed mechanism for addressing complaints under the code of
conduct for judges, we agree with the general principle that complaints relating to a pending case should not be dealt with until the case is disposed of, to avoid the possibility of complaints becoming another avenue of attack against a proceeding, but think that this rule should not be ironclad, for instance where the misconduct of a judge inflects the proceedings themselves. We would also suggest that when the President dismisses a case under proposed Article 11, or following informal resolution under proposed Article 13, the written decision contemplated should redact the name of the complainant and that of the judge, as such decisions run the risk of becoming public. Finally, we would be interested to understand better what kind of informal resolution would be undertaken in cases of alleged judicial misconduct, as, in some sense, cases