UNITED
NATIONS

AT

Administrative Tribunal

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ADMINISTRATIVE TRIBUNAL

Judgement No. 379

Case No. 375: Gilbert
No. 376: Hyde
No. 377: Ishkinazi
No. 378: Michel

AGAINST: The United Nations
Joint Staff
Pension Board

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Samar Sen, President; Mr. Endre Ustor; Mr. Roger Pinto;

Whereas, on 9 February 1986, Mr. Jean Gilbert, recipient of a retirement pension paid by the United Nations Joint Staff Pension Fund, filed an application, the pleas of which read as follows:

"MAY IT PLEASE the presiding member to agree to the holding of oral proceedings in this case.

AND MAY IT PLEASE the Tribunal:

1. To declare itself competent in this case;

2. To declare and judge the application receivable;

3. To order the rescission of the decision adopted by the Standing Committee of the United Nations Joint Staff Pension Fund, acting on behalf of the Board, at its 162nd meeting, held from 25 to 28 June 1985, to uphold the decision by the Secretary to apply to the Applicant, with effect from 1 January 1985, a revision of the two-track pension adjustment system which was applied to him on 31 December 1984, including, in particular, and subject to transitional measures, a cap on the dollar track benefit equal to 120 per cent of the local currency track benefit;

4. Accordingly, to order payment by the Fund to the Applicant, with effect from 1 January 1985 - irrespective of any withdrawal of declaration of country of residence which he might, where applicable, have signed with reservation - of the higher of the two amounts as calculated by applying the two-track pension adjustment system applicable on 31 December 1984, without imposing a limit (except for a floor established for a specific quarter at the local currency equivalent of the benefit payable on the dollar track as at 31 December 1984), on the local currency equivalent of the dollar track benefit equivalent to 120 per cent of the benefit calculated directly in local currency, minus payments made, under this heading, for periods subsequent to 31 December 1984;

5. To award the Applicant, as costs, a sum payable by the Respondent, assessed at the time of the submission of this application at four thousand (4,000) United States dollars, subject to adjustment upon completion of the proceedings."

Whereas, on the same day, Mr. Luis G. V. Hyde, Mrs. Aimée Ishkinazi and Mrs. Lucie Michel, likewise recipients of retirement pensions paid by the United Nations Joint Staff Pension Fund, filed similar applications;

Whereas the Respondent filed its answer on 29 August 1986, and supplemented it on 24 October 1986;

Whereas the Applicant filed written observations on 6 October 1986 and supplemented them on 31 October 1986;

Whereas, on 7 October 1986, Mrs. Patricia Christian Grenfell Bohn submitted an application for intervention in the case under article 19, paragraph 2, and article 7, paragraph 7 of the Rules of the Tribunal;

Whereas, on 4 November 1986, the Tribunal heard the parties at a public session in the course of which the Applicants and the Respondent furnished additional information;

Whereas, at the request of the Tribunal, the Respondent produced additional documents and information on 17 October 1986, 7 November 1986 and 28 November 1986;

Whereas, at the request of the Tribunal, the Applicants submitted additional observations on 15 November 1986 and 1 December 1986, in which they commented on the documents produced by the Respondent;

Whereas the facts in the case are as follows:

The Applicants, Mr. Jean Gilbert, Mr. Luis G. V. Hyde, Mrs. Aimée Ishkinazi and Mrs. Lucie Michel, are recipients of retirement pensions paid by the United Nations Joint Staff Pension Fund. The General Assembly, in its resolution 33/120 of 19 December 1978, decided:

> "To revise the system of adjustment of benefits in payment contained in General Assembly resolution 3354 (XXIX) of 18 December 1974 and previous resolutions on the same subject, with effect from 1 January 1979, in accordance with the recommendations of the United Nations Joint Staff Pension Board contained in paragraphs 18 to 46 of its report to the Assembly for 1978 and in annex V thereto".

The system adopted established two amounts for each beneficiary:

> "(a) One in United States dollars, which will be adjusted periodically to reflect changes in the United States Consumer Price Index;"

and

> "(b) The other in local currency, which will be adjusted periodically to reflect changes in the Consumer Price Index in the beneficiary's country of residence" (A/33/9, annex V, para. 3).

Each beneficiary who had submitted the required proof of his country of residence was entitled, on the effective date of the new system, to the greater of: the local currency equivalent of the dollar amount of his pension adjusted, if applicable, to reflect changes in the United States CPI (Consumer Price Index) between the fourth month preceding the date of the adjustment and the month for which the last utilized United States CPI was established; or the local currency amount adjusted, if applicable, in the same way, but in accordance with the CPI of the country of residence (A/33/9, annex V, para. 28).

This system was amended by the United Nations General Assembly in its resolution 35/215 of 17 December 1980. The modifications would serve, inter alia, "to increase the initial entitlement in local currency when the recipient resides in a country where the cost of living is substantially higher than that which was reflected in the pensionable remuneration used to determine his basic dollar entitlement under the Regulations" (A/35/9, annex V, para. 3).

The United Nations General Assembly, in its resolution 38/233 of 20 December 1983, requested the United Nations Joint Staff Pension Board, with the assistance of the Committee of Actuaries, to consider, early in 1984, the various proposals discussed at the thirty-eighth session of the General Assembly with a view to reducing or eliminating the actuarial imbalance of the United Nations Joint Staff Pension Fund. One of the proposals was the following: /...

"(e) Review of the two-track system followed to determine the initial amount of the pension and its subsequent adjustment".

The Board, in its report to the General Assembly at its thirty-ninth session, first examined the reasons which had been used to justify the establishment of this system, and commented in that regard:

"that prior to 1971, in the days of fixed parities, a benefit denominated in United States dollars posed no problems. But when the dollar weakened against the other major currencies, pensioners living outside the United States, particularly those in countries such as Switzerland, experienced substantial reductions in the purchasing power of their benefits. The 'local track' was introduced to counter that loss of purchasing power. The desired objective was achieved, but the cost to the Fund in dollar terms was substantial while the United States dollar was weak. The renewed strength of the dollar in recent years has meant that the 'local track' has become largely theoretical, since the vast majority of pensioners are now paid in accordance with the 'United States dollar track' (which now yields the higher benefit). In the circumstances, the question could be asked whether there was need to retain the 'local track' or whether the Fund could revert to the old single United States dollar-denominated benefit system. The Board concluded that the 'local track' should be retained as an insurance against the future weakening of the dollar. At the same time, the Board noted that several major currencies were now so weak in relation to the dollar that the 'dollar track' yielded benefits up to 40 per cent higher (in local currency terms) than the 'local track'. The Board was of the view that such extensive differences over the 'local track' were difficult to justify and concluded that they should be controlled."

In the light of that analysis, the Board recommended:

"that the 'United States dollar track' be 'capped' at 120 per cent of the 'local track'. In other words, in countries where the 'dollar track' when converted into local currency yields a larger benefit in local currency units than the 'local track' (both duly adjusted for inflation), the amount actually payable to the retiree should not exceed the 'local track' amount plus 20 per cent thereof. The Board believes that the 20 per cent limit provides a fair balance between the entitlement to a full United States dollar-denominated benefit and the need to safeguard the purchasing power of the benefit in local currency terms."

At the same time, the Board noted that:

"The imposition of the recommended 'cap' will require transitional arrangements to prevent an immediate reduction in the amounts of the benefits actually payable, details of which will be found in annex X of the present report" (A/39/9, paras. 42-45).

The General Assembly, in its resolution 39/246 of 18 December 1984, adopted, inter alia, the following measure:

"(d) In the case of participants to whom the two-track adjustment system is applicable, the adjusted amount of the United States dollar benefit, when converted into local currency, shall be limited to 120 per cent of the adjusted local currency benefit, subject to the transitional measures described in annex X to the report of the Pension Board".

Subsequent to that resolution, in a letter dated 31 January 1985, the Secretary of the Board decided to apply this revised adjustment system to the particular case of each Applicant.

By letters dated 1 April 1985, 2 April 1985, 3 April 1985 and 11 April 1985, the Applicants, of whom two reside in Switzerland (Mr. Hyde and Mrs. Michel) and two in France (Mr. Gilbert and Mrs. Ishkinazi), requested the Secretary of the Board to ask the Standing Committee to review the decision by the Secretary of the Board to apply the revised adjustment system to their particular case. By a form letter dated 6 May 1985, the Secretary of the Board informed them that their letters would be considered as the "notice in writing" required pursuant to rule K.5 of the Administrative Rules of the Fund and would be presented as such to the Standing Committee.

By a letter dated 8 July 1985, the Secretary of the Board informed the Applicants of the decision adopted by the Standing Committee to uphold his decision.

On 9 February 1986 the Applicants filed the aforementioned applications.

Whereas the Applicants' principal contentions are:

1. The decision to apply to the particular case of each Applicant the change in the two-track adjustment system was taken in violation of their acquired rights.

2. The aim of the pension adjustment system which the Respondent has applied, as amended, to the Applicants as from 1 January 1985 is to reduce or eliminate the Fund's actuarial deficit. Article 26 of the Regulations of the Fund was violated, since the revision of the two-track adjustment system was used to make up, at least in part, the actuarial deficit.

3. The procedure which led to the adoption of General Assembly resolution 39/246 concerning the pension system suffered from a substantial formal flaw as a result of the non-observance of article 49 (a) of the Regulations of the Fund.

Whereas the Respondent's principal contentions are:

1. The Tribunal lacks competence, as the Applicants suffered no measurable damages due to the contested action.

2. The Tribunal lacks jurisdiction over the pension adjustment system, which is not part of the Regulations of the Fund.

3. The pension adjustment system is also not part of the Fund's Administrative Rules.

4. The contested decision was adopted by the United Nations General Assembly, not by the Secretary of the Board.

5. The adoption of the cap did not violate article 26 of the Regulations of the Fund.

6. The adoption of the cap did not violate the acquired rights of the Applicants.

7. The method used by the Fund for the adoption of the cap was valid.

The Tribunal, having deliberated from 13 October 1986 to 7 November 1986 in New York and from 1 December 1986 to 5 December 1986 in London, now pronounces the following judgement:

I. Since the applications submitted in cases Nos. 375, 376, 377 and 378 relate to the same measures and contain the same pleas, the Tribunal orders the joinder of these cases.

II. In these cases, the Tribunal must pronounce judgement on problems concerning its competence and the receivability of applications which it has already settled in its Judgement No. 378. The other matters submitted to the Tribunal are different, however, and the Tribunal must therefore render a separate judgement.

III. The individual who applied to intervene is a participant in the United Nations Joint Staff Pension Fund. She has rights which may be affected by the Tribunal's judgement. The Tribunal decides that this application for intervention is receivable.

IV. The facts are not in dispute. The Tribunal will refer to them to the extent necessary for the application of the existing law.

V. Each Applicant, at the time of his or her retirement, received a letter from the Secretary of the Board of the United Nations Joint Staff Pension Fund (hereinafter referred to as the Fund). This letter, after stating how the pension is calculated contains the following in paragraph 3, the same wording being used for each Applicant:

"Under the system of pension adjustments approved by the General Assembly, your benefit has been established in the currency of your country of residence at the rate of ... per year. Your benefit in US dollars and in local currency will be adjusted periodically according to the movement of the Consumer Price Indices of the United States and your country of residence, respectively. You will be paid the greater of these two amounts determined at the quarterly adjustment date."

VI. Following the adoption of resolution 39/246 of 18 December 1984, each Applicant received notification on 31 January 1985 of the decision taken by the Secretary of the Board in compliance with the changes made by the General Assembly in the "two-track" pension adjustment system. These changes included, subject to transitional measures, a cap on the local currency equivalent of the dollar track benefit equivalent to 120 per cent of the amount of the pension calculated in local currency.

VII. The Applicants, invoking various legal grounds, requested the Secretary of the Board to review the aforesaid decision. After several exchanges of correspondence, the Standing Committee, acting on behalf of the Pension Board, confirmed the Secretary's decision. The latter notified each Applicant of this confirmation on 8 July 1985. The Applicants then brought the case before the Tribunal.

VIII. At the outset, the Respondent challenges the Tribunal's competence. He recognizes that, under article 2, paragraph 3, of the Statute of the Tribunal and article 48 (b) of the Regulations of the Fund, the Tribunal is empowered to settle any dispute as to whether it has competence. On this point, under the terms of article 48 (c) of the Regulations of the Fund, the decision of the Tribunal is final and without appeal.

IX. The Respondent invokes the following arguments, based on the text, in support of his plea:

- Article 48 (a) of the Regulations of the Fund, which provides that:

"Applications alleging non-observance of these Regulations arising out of the decision of the Board may be submitted directly to the United Nations Administrative Tribunal";

- Article 2, paragraph 1, of the Statute of the Tribunal, which limits its competence to applications alleging non-observance of contracts of employment or terms of appointment of staff members and specifies that these terms include, according to the English text on which the Respondent bases its argument, "the

staff pension regulations"; the French text reads: "... y compris les dispositions du règlement des pensions du personnel";

- The reading of chapter VIII of the Rules of the Tribunal:

"Applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund";

- Article 1, paragraph 1, of the Special Agreement of 23 September 1955 between the United Nations and UNESCO extending the jurisdiction of the Tribunal to UNESCO, with respect to applications by staff members "alleging non-observance of the Regulations" of the Fund, which provides that:

> "The United Nations Tribunal shall be competent to hear and pass judgment, in accordance with the applicable provisions of its Statute and its Rules, upon applications alleging non-observance of the Regulations of the Fund."

All Special Agreements contain an identical clause.

Consequently, for the Respondent, the competence of the Tribunal is limited to the non-observance of the Regulations of the Fund and does not extend to the pension adjustment system, which is not part of its Regulations.

X. Like the Administrative Tribunal of the International Labour Organisation (ILO), the United Nations Administrative Tribunal is a tribunal of limited jurisdiction and not of general jurisdiction. The International Court of Justice has defined the competence of the ILO Administrative Tribunal in its Advisory Opinion of 23 October 1956 (Judgements of the Administrative Tribunal of the International Labour Organisation, upon complaints made against the United Nations Educational, Scientific and Cultural Organization; ICJ, Reports of Judgements, Advisory Opinions and Orders, 1956, p. 77).

The Statute of the ILO Administrative Tribunal might appear restrictive. Indeed, in article II, paragraph 5, it provides that:

> "The Tribunal shall ... be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of <u>provisions of the Staff Regulations</u> ..." (emphasis added).

The Court, however, refused to attach to this provision "<u>any purely formal meaning</u>". It held that, in order for the Tribunal to have jurisdiction, "it is sufficient to find that the claims set out in the complaint are, <u>by their nature</u>, such as to fall within the framework of Article II, paragraph 5, of the Statute of the Tribunal ..." (<u>Ibid.</u>, p. 88) (emphasis added).

XI. The International Court of Justice was asked to determine whether an Administrative Memorandum from the Director-General of UNESCO, which was not, however, part of the Staff Regulations, could be considered as falling within the terms of article II, paragraph 5, of the Statute of the ILO Administrative Tribunal, which refers to the "provisions of the Staff Regulations". The Court observes that "... the Administrative Memorandum was related to the application of the Staff Regulations" (Ibid., p. 96). It declares, therefore, as had been stated by the ILO Tribunal in its judgement, that what was involved was "a 'dispute concerning the interpretation and application of the Staff Regulations and Rules of the defendant Organisation' and that, in consequence, the Tribunal was justified in confirming its jurisdiction" (Ibid., p. 97).

XII. The International Court of Justice concludes its opinion with relevant reflections on the extent of the competence conferred upon the Administrative Tribunal - although the Tribunal is in the Court's view, an international tribunal. It emphasizes the following point:

> "However, the question submitted to the Tribunal was not a dispute between States. It was a controversy between Unesco and one of its officials. The arguments, deduced from the sovereignty of States, which might have been invoked in favour of a restrictive interpretation of provisions governing the jurisdiction of a tribunal adjudicating between States are not relevant to a situation in which a tribunal is called upon to adjudicate upon a complaint of an official against an international organization" (Ibid.).

XIII. The Tribunal also took into account the fact that, if it accepted the Respondent's argument concerning its competence, the Applicants would be deprived of the possibility of submitting their claims to a jurisdictional procedure. As the Court stated in its 1954 Advisory Opinion:

> "It would ... hardly be consistent with the expressed aim of the Charter to promote freedom and justice for individuals and with the constant preoccupation of the United Nations Organization to promote this aim that it should afford no judicial or arbitral remedy to its own staff for the settlement of any disputes which may arise between it and them" (Effect of Awards of Compensation Made by the United Nations Administrative Tribunal, Advisory Opinion of 13 July 1954: ICJ Reports 1954, p. 57).

XIV. In the present case, which concerns the pension adjustment system, the Tribunal finds, in the words of the International Court of Justice, that this system "is related to" the Regulations of the Fund. This relationship to the Regulations of the Fund is confirmed, firstly, by the inclusion of the pension

adjustment system in annex III to the Regulations and Rules of the Fund. It is implicitly affirmed by the Fund itself, in the letter addressed by the Secretary of the Board to each staff member upon his or her separation from service defining the pension benefits to which the staff member is entitled (para. V above).

Moreover, the Tribunal recognized, in its Judgements Harpignies (No. 182, 1974) and Rivet (No. 228, 1977), that the pension adjustment system falls within its competence.

XV. For the foregoing reasons, the Tribunal declares that it is competent.

XVI. The Respondent had raised against the Applicants two objections concerning the receivability of the application: one based on the "general" nature of the decision taken by the Secretary of the Board, the other based on the lack of "measurable damage" resulting from the contested decision.

XVII. Each Applicant appealed against an individual decision affecting him or her. The Respondent, however, maintains that the decisions by the Secretary of the Board are "of a general character". The Tribunal cannot follow this argument. The applications are not directed against decisions "of a general nature" which the Applicants are asking to have rescinded. Hence the jurisprudence of the Tribunal as stated in Judgement No. 328: Cuvillier, para. VII and Judgement No. 329: Longerich, para. V is not applicable. The Tribunal therefore rejects this first objection to the receivability of the application.

XVIII. The Respondent also maintained that the decision impugned was in reality a decision of the General Assembly, which the Respondent merely implemented. The Tribunal deems this objection unfounded. Were it to be accepted, it would deprive staff members and pensioners of any possibility of recourse.

XIX. The second objection raised claims that the Applicants did not suffer any damage. However, the Respondent withdrew this objection during the oral proceedings. The Tribunal takes official cognizance of that fact.

XX. The Applicants argued that the contested decisions of 8 July 1985 in their individual cases are null and void. They allege that the procedure required by article 49 of the Regulations of the Fund was not followed when the Board submitted its recommendations to the General Assembly for modifications of the pension adjustment system.

The Tribunal cannot accept this argument. On the one hand, the proposed modifications did not involve an amendment to the Regulations. On the other hand, the Fund's procedure for preparing and adopting proposals and recommendations to be

submitted to the General Assembly is an internal matter. Any irregularities alleged at this stage, of which the Applicants have furnished no proof, do not affect the resolutions adopted by the General Assembly.

XXI. The Tribunal must now determine whether the changes in the pension adjustment system have violated the rights of the Applicants.

XXII. The parties recognize that the pension adjustment system is a benefit, to which the participants in the Fund are entitled and of which they may not be deprived.

XXIII. The Tribunal holds that this concurrence of views by the parties is juridically sound. There is indeed an obligation on the part of the Fund to maintain a pension adjustment system which takes account of changes in the cost of living.

On the basis of the Fund's conclusions, the General Assembly decided, in 1960, that such an adjustment system should be established (resolution 1561 (XV) of 18 December 1960, para. 6). Pending the adoption of a "permanent system of adjustment", the General Assembly established an interim adjustment (resolution 1799 (XVII) of 11 December 1962). In 1965 the General Assembly adopted a system of adjustment of "benefits" in respect of cost-of-living changes to replace that temporary system (resolution 2122 (XX) of 21 December 1965). For nearly 25 years, a benefit adjustment has been in force. Every staff member entering the service of a member organization of the Fund who acquires the status of participant may consider the adjustment system as a part of his or her terms of appointment. The right to benefits granted to participants in the Fund includes this system.

This right to benefits in respect of cost-of-living changes is mentioned in the letter sent by the Secretary of the Board to each participant upon his or her retirement.

The Tribunal holds that this constitutes an obligation of the Fund. The Fund, in its written statements and in its oral arguments, strongly affirmed that it accepted this obligation and intended to respect it.

XXIV. The agreement of the parties on the principle of the obligation ends when it comes to determining the scope of that obligation.

XXV. The Applicants argue that in order to do so, a distinction must be drawn between two periods. During the first period, between the date when the staff member became a participant in the Fund and that of his or her separation, changes

adversely affecting the participants could be made in the pension adjustment system, at least for the future and without retroactivity. On the other hand, during the period beginning on the date of separation, unfavourable modifications in the pension adjustment system would no longer be applicable to them.

XXVI. The Applicants justify this distinction by invoking the jurisprudence established by the Tribunal with respect to acquired rights. The Tribunal's judgement, however, is not based thereon. It is not relevant to this case.

XXVII. The Tribunal holds, and indeed even the Respondent admits, that the right to the adjustment of pension benefits based on cost-of-living changes and the Fund's corresponding obligation arise when the staff member acquires the status of participant in the Fund. This right and this obligation continue to exist as long as the participant is receiving a retirement pension.

XXVIII. In line with the Tribunal's judgement in the Harpignies case (No. 182, 1974), the Respondent fully recognized in his explanatory statements that:

> "Beneficiaries of the Fund are nevertheless entitled as of right to a meaningful, reasonable pension adjustment system that provides them an adequate measure of protection from cost-of-living changes occurring after their retirement".
>
> ("Les participants au fonds doivent néanmoins bénéficier, comme droit, d'un système d'ajustement des pensions effectif et raisonnable qui leur apporte une protection adéquate contre les variations du coût de la vie se produisant après leur retraite.")

XXIX. At the same time the Respondent maintains that the pension adjustment system may be modified periodically, without retroactivity, in order to take account of a change in the circumstances which determine the adjustment of benefits in the light of cost-of-living changes. He admits that the exercise of a certain degree of discretionary power in taking such measures does not justify an abuse of this power.

XXX. The Tribunal agrees with this argument. It holds that the revisions in the pension adjustment system are applicable without retroactivity to all beneficiaries of retirement pensions. These modifications must not be arbitrary. They must be reasonable and must be adapted to the aim of the system: adjustment of pensions to cost-of-living changes in the various countries of residence of the retired staff members. They may not be used for purposes other than the protection of the purchasing power of retired staff members - nor with greater reason can they be allowed to result in forfeiture or deprivation.

XXXI. The Tribunal will therefore apply these criteria to the modifications contested by the Applicants.

XXXII. The Applicants argue that the establishment of a cap on the dollar track benefit equivalent to 120 per cent of the benefit calculated in local currency is a violation of their rights.

XXXIII. However, it does not appear to the Tribunal that this limit exceeds the existing margin of discretionary power with respect to the adjustment of pensions to the cost of living. This limit has no spoliatory character. It is based on reasonable grounds. It has no retroactive effect.

XXXIV. The Applicants point out that the United Nations staff pension system has "many imperfections, some of which affect equity much more seriously than does the payment of the local currency equivalent of the United States dollar track amount" - that is, without the 120 per cent cap.

The Tribunal is not competent to judge the bases on which the United Nations common pension system is established. It can only pronounce its opinion on the "unfair" nature of the 120 per cent cap. It has the responsibility of determining whether this measure is unreasonable or spoliatory and whether it is in full conformity with the system's objective of adjusting pensions to changes in the cost of living.

XXXV. The parties agree in recognizing that the adopted modification stems from a "concern for justice" - even if the Applicants feel that it "more closely resembles a concern for economy".

XXXVI. The Tribunal finds that the imposition of a cap meets the objective of the adjustment system. This measure is aimed at preventing any unfair profit resulting from dollar rate fluctuations. The fact that this measure also results or would result in savings does not adversely affect the rights of the Applicants.

XXXVII. Moreover, the parties agree on the fact that the cap does not affect the amount of the pension in local currency adjusted periodically to take into account the increase in the cost of living.

XXXVIII. The Tribunal finds that the imposed cap is not an inequitable or unreasonable measure.

XXXIX. The Tribunal finds that no right of the Applicants has been violated by the contested decisions. Accordingly, the Applicants' claim that article 26 of the Regulations of the Fund was violated is extraneous to the issue and irrelevant.

XL. The Applicants asked the Tribunal to order the Respondent to pay costs. Since their applications have been rejected, the Tribunal decides that there are no grounds for acceding to this request.

XLI. For the foregoing reasons, the Tribunal:

- Declares itself competent and rejects the objections to receivability raised by the Respondent;

- Rejects the Applicants' requests concerning the rescission of the Board's decisions notified by the Secretary of the Board of the Fund on 8 July 1985;

- Rejects all other requests of the Applicants.

XLII. The application for intervention, declared receivable, is rejected on the merits.

(Signatures)

Samar SEN
President

Endre USTOR
Member

Roger PINTO
Member

London, 5 December 1986

R. Maria VICIEN-MILBURN
Executive Secretary
