



General Assembly

Distr.  
GENERAL

A/C.5/38/27  
8 November 1983

ORIGINAL: ENGLISH

---

Thirty-eighth session  
FIFTH COMMITTEE  
Agenda item 109

PROPOSED PROGRAMME BUDGET FOR THE BIENNIUM 1984-1985

Conditions of service and compensation for officials other  
than Secretariat officials

Report of the Secretary-General

Introduction

1. In section XIV of resolution 37/237 of 21 December 1982, the General Assembly took note of the views expressed by Member States on the question of an education grant for certain full-time officials other than members of the Secretariat and decided to consider this question at its thirty-eighth session on the basis of a report by the Secretary-General "as part of an overall review of compensation and other conditions of service of the full-time officials". The present report is submitted in accordance with that decision.
2. At present the following officials are serving the General Assembly on a full-time basis but are not members of the Secretariat: the Chairman of the Advisory Committee on Administrative and Budgetary Questions (ACABQ), the Chairman and Vice-Chairman of International Civil Service Commission (ICSC), and the members of the Joint Inspection Unit (JIU).
3. It will also be recalled that the Secretary-General had indicated, in the report (A/C.5/37/50) he submitted last year on the travel and subsistence regulations applicable to the members of the International Court of Justice (ICJ), that he had received representations from the Court regarding the judges' pension provisions and other conditions of service, and that he intended to submit a report on those matters to the thirty-eighth session of the General Assembly.
4. Under the provisions of article 14 of the statute of JIU, the salary, allowances and other conditions of service of the Inspectors correspond to those applicable to United Nations staff members at the D-2, step IV, level. With effect from 1 January 1983, newly appointed Inspectors are also participants in the United

Nations Joint Staff Pension Fund (UNJSPF) with the same pensionable remuneration and pension entitlements as a D-2, step IV staff member. In these circumstances, this review will not deal with the situation of the Inspectors.

5. In the light of the request contained in the decision of the General Assembly referred to in paragraph 1 above, this report contains the reviews of the compensation and other conditions of service of the Chairman of ACABQ, the Chairman and Vice-Chairman of ICSC and the members of ICJ.

6. Given the different historical developments of the compensation and other conditions of service of the officials concerned and the events leading to the decision of the General Assembly referred to in paragraph 1 above, this report is divided into two parts: Part I deals with the Chairman of ACABQ and Chairman and Vice-Chairman of ICSC, and part II with the members of ICJ.

#### I. Chairman of ACABQ and Chairman and Vice-Chairman of ICSC

##### Background information

##### A. Remuneration

7. Chairman of ACABQ. Starting in 1948 and through 1957, the Chairman of the Advisory Committee received a special allowance of \$50 a day while engaged in the work of the Committee and not in the service of his Government or any other body. During its twelfth session in 1957 the General Assembly, on the basis of a comprehensive review of honoraria and special allowances, decided that the Chairman of the Advisory Committee should receive an annual net lump-sum honorarium of \$5,000 plus a subsistence allowance at the rate applicable to senior Secretariat officials during sessions of the Advisory Committee not held at Headquarters.

8. As from 1 January 1972, the honorarium was increased by the Assembly to \$25,000 in recognition of the substantially increased responsibilities entrusted to the Chairman by the Advisory Committee and of the time needed to discharge them which had made it impossible for him to be concurrently engaged in other activities on behalf of his Government or any other body.

9. The General Assembly, by section VI of resolution 32/212, increased the total compensation to \$50,000, effective 1 January 1978, making it equivalent to the amount of the compensation plus the additional allowance received by the Chairman of ICSC. The same level of compensation for the two Chairmen has been maintained since. Thus, as was the case for the Chairman of ICSC, the compensation of the Chairman of the Advisory Committee was increased to \$55,000, effective 1 January 1979, to \$59,000 effective 1 January 1980, to \$67,000 as from 1 January 1981, to \$72,360 effective 1 January 1982, and to \$75,978 as from 1 January 1983. The Chairman of the Advisory Committee also receives a fixed additional allowance in the amount of \$5,000 per year.

10. Chairman and Vice-Chairman of ICSC. Article 19 of the statute of ICSC, which was approved by the Assembly in resolution 3357 (XXIX) of 18 December 1974,

provides, inter alia, that "the conditions of service of the Chairman and the Vice-Chairman of the Commission shall be determined by the General Assembly". In his first report (A/9147), to the Assembly at its twenty-eighth session in 1973, which contained a draft statute for the Commission, the Secretary-General indicated that the purpose of the present article was "to set apart the salary and allowances to be paid to the full-time members of the Commission from those of the staff of the organizations which the Commission will be required to review, advise or determine". In its comments on the draft statute, the then existing International Civil Service Advisory Board (ICSAB) endorsed that provision "for the sake of general confidence in their (the full-time Commissioners') freedom from bias", and stated that "the remuneration and status of the Chairman should be such as to permit him to speak on equal terms with executive heads". The Board added, however, that "this should not be taken as a recommendation of parity". With those observations in mind, the Secretary-General recommended, at that time, that the remuneration of the Chairman and the other full-time members (two were proposed in the original version of the draft statute) "should be set at a level not less than that of an Assistant Secretary-General".

11. In its related report (A/9891) to the Assembly at its twenty-ninth session, ACABQ made the following observations:

- (a) "The essential consideration is to ensure that the full-time commissioners are seen to be independent of the top echelon of the Secretariat. To that end, they should have conditions of service distinct from those of the Secretariat";
- (b) "The remuneration of the full-time commissioners should be set by the General Assembly outside the common system, so that they should not be personally affected by the recommendations they would be called upon to make in exercise of their functions [and] it should take the form of an honorarium appropriate to the complexity and importance of the tasks they will perform under the Commission's statute."

12. On that basis, the Advisory Committee recommended that (a) the amount be set initially at \$45,000 net a year, (b) the Chairman of the Commission also receive an allowance of \$5,000 net a year in recognition of his added responsibilities, (c) the honoraria should not be liable to staff assessment and (d) since post adjustment would not apply to the honoraria, the latter should be reviewed by the General Assembly at appropriate intervals. Those recommendations of ACABQ were approved by the General Assembly.

13. The honoraria (later redesignated annual compensation) established for the Chairman and Vice-Chairman of ICSC were marginally lower than the net remuneration at that time for the two senior Secretariat levels in New York (as of 1 January 1975, \$50,000 and \$45,000 versus \$50,768 and \$45,928 for an Under-Secretary-General and Assistant Secretary-General, respectively). By the time the first Chairman of the Commission assumed his duties on 1 April 1975, the honorarium plus the additional allowances were approximately equivalent to the amount corresponding to the mid-point between the net remuneration (net base salary, post adjustment at dependency rate, spouse allowance and representation allowance) of the Under-Secretaries-General (\$52,217) and Assistant Secretaries-General (\$47,257) in New York.

14. In a report to the Assembly at its thirty-third session (A/C.5/33/41), the Secretary-General reviewed the compensation and other conditions of service of full-time officials other than staff members and presented comprehensive data on the emoluments of the two full-time commissioners and those of officials at Assistant Secretary-General and Under-Secretary-General levels. He noted that, unlike the situation for staff members, "no distinction is currently made in the direct monetary payments to the full-time members of the ICSC according to their dependency status". The Secretary-General made no specific recommendation other than to note that the information and data contained in the report provided all the elements needed for the General Assembly to arrive at a judgement on the appropriate compensation for the Chairman and Vice-Chairman of ICSC.

15. The Advisory Committee, in its report (A/33/7/Add.19), recommended that "the honorarium of the Chairman and Vice-Chairman of the ICSC be set at \$55,000 net a year as from 1 January 1979 and that the Chairman continue to receive an allowance of \$5,000 in recognition of his added responsibilities". The Committee did not recommend the introduction of different levels of compensation according to the dependency status of the Commissioners. The General Assembly, in Section VII, paragraph 4, of resolution 33/116 B of 21 November 1978, approved the recommendation of the Advisory Committee.

16. At its thirty-fourth session in 1979, the General Assembly, in section XIII of resolution 34/233 of 20 December 1979, approved "as an interim measure, pending a review at its thirty-fifth session, an annual compensation of \$59,000 for the Chairman of the ACABQ and the two full-time members of the ICSC, with an additional allowance of \$5,000 for the Chairman of the Commission and the Chairman of the Advisory Committee effective 1 January 1980." In taking that action, the Assembly recognized the difficulties regarding the timing of adjustments inherent in the procedures set out in section VIII, paragraph 6, of its resolution 33/116 B of 21 December 1978 which called for "a review of the compensation of those full-time officials every four years or when the consumer price index (CPI) in the United States had risen by 10 per cent since the last review, whichever came first".

17. The Secretary-General, in his report (A/C.5/35/53) to the General Assembly at its thirty-fifth session, proposed an automatic interim adjustment procedure based on the movement of the consumer price index (CPI) in New York. More specifically, the interim adjustment procedure, which was adopted by the General Assembly in paragraph 2 of resolution 35/221 of 17 December 1980, provided that, beginning in January 1982, the annual compensation be increased in January of each calendar year by 90 per cent of the New York CPI movement (rounded to the nearest whole number) since the last adjustment, provided CPI had increased by at least 5 per cent. On that basis, the compensation for the Chairman and Vice-Chairman of ICSC increased from \$67,000 to \$72,360, effective 1 January 1982, and to \$75,978, as from 1 January 1983, with the Chairman of ICSC continuing to receive an additional allowance of \$5,000 per year which is not subject to automatic adjustments.

B. Other conditions of service

18. Chairman of ACABQ. Although, as described in paragraphs 7-9 above, significant changes have taken place since 1948 in the nature and the amount of the compensation received by the Chairman of the Advisory Committee, the other conditions of service continue to be limited to the following, as summarized in the Secretary-General's report to the General Assembly at its thirty-third session (A/C.5/33/41):

(a) Coverage for illness, injury or death attributable to service with the United Nations under the provisions of the compensation plan initially authorized by General Assembly resolution 458 (V) and the rules promulgated by the Secretary-General governing such compensation, the latest revision (ST/SGB/103/Rev.1) of which had been approved by General Assembly resolution 34/233;

(b) Subsistence allowance when conducting Advisory Committee business away from Headquarters;

(c) In the absence of any written requirement that the Chairman reside in New York, the same travel entitlements as apply to the other members of the Committee.

19. The travel costs of the dependants of the Chairman, the cost of medical insurance coverage, removal expenses and contributions towards children's education have not heretofore been paid by the United Nations.

20. As regards item (c) in paragraph 18, it seems clear that the Chairman of ACABQ, as a full-time official, needs to take up residence in New York. In the light of the changes made in the past and as proposed in this report, the compensation and other conditions of service in respect of the entitlements of the Chairman would be the same as those of the Chairman of ICSC. Moreover, the other entitlements referred to in paragraph 19 above would also be the same as those provided to the Chairman of ICSC.

21. In reviewing those conditions of service, the Advisory Committee, in its report (A/33/7/Add. 19), concluded that they "need not be altered at this stage". That position was endorsed by the Assembly in resolution 33/116B.

22. Chairman and Vice-Chairman of ICSC. Since the General Assembly in 1974 had confined its action to establishing the amount of annual compensation (then called honorarium), it was necessary for the Secretary-General to determine appropriate arrangements regarding the other conditions of service to be extended to the Chairman and Vice-Chairman of ICSC. That was done in the letters from the Secretary-General to those officials upon assumption of their duties in which it was specified that as regards their conditions of employment "your status will be assimilated to that of the highest ranking officers of the United Nations Secretariat," i.e., Under-Secretaries-General and Assistant Secretaries-General. The Secretary-General informed the General Assembly, on the occasion of the first comprehensive review of the conditions of service of these officials in 1978 (A/C.5/33/41), that in actual implementation the assimilation had included extending the following entitlements to the two Commissioners in respect of themselves and their dependants by reference to the relevant provisions of the Staff Rules:

- (a) Travel expenses on appointment;
- (b) Removal of household goods and effects;
- (c) Entitlements for travel on official business (subsistence and travel costs);
- (d) Home leave (once every two years);
- (e) Annual leave (six weeks a year);
- (f) Sick leave;
- (g) Coverage for service-incurred death, injury or illness under appendix D of the Staff Rules;
- (h) Inclusion under the Headquarters medical insurance scheme but without a subsidy.

The Secretary-General stated that those arrangements were based on considerations that the Chairman and Vice-Chairman were appointed for terms of four years and were required by the statute of the Commission to serve full-time in New York.

23. In its comments on the Secretary-General's report (A/33/7/Add.19), the Advisory Committee stated that the assimilation in the letters of appointment of the status of the two officials to that of the highest ranking officers of the United Nations Secretariat was inconsistent with the view previously expressed by the Advisory Committee, which is quoted in paragraph 11 above. The Advisory Committee, therefore, recommended that the formulation used in the letters of appointment of the two full-time Commissioners be discontinued.

24. As regards the entitlements themselves, the Advisory Committee stated that (a) the entitlement to subsistence and travel costs when travelling on official business derived not from the relevant provisions of the Staff Rules but from the relevant provisions of the General Assembly resolutions on the travel of members of commissions, committees and other bodies serving in their individual capacity; (b) coverage for service-incurred death, injury or illness should be under the rules governing compensation to members of commissions, committees or similar bodies in the event of death, injury or illness attributable to service with the United Nations and that the Secretary-General should make recommendations for the amendment of the existing rules (revised rules (ST/SGB/103/Rev.1) were approved by General Assembly resolution 34/233); (c) the United Nations should bear the cost of travel to New York for the full-time Commissioners and their dependants and of the removal of their household goods and effects, when they assume or relinquish their duties; (d) the full-time Commissioners should be given the option of joining the Headquarters medical insurance scheme upon payment of the full cost of the premium, and (e) inasmuch as they were not staff members, it was not appropriate that provisions of the Staff Rules should apply to the Commissioners' entitlement to home leave, annual leave and sick leave; as regards home leave the United Nations should defray the related travel costs for a specified number of occasions during a four-year term of office, leaving the periodicity of the travel to the discretion of the Commissioners themselves.

25. The Secretary-General informed the Assembly in the 1978 report (A/C.5/33/41) that, in light of the policy to distinguish the salary and allowances of the Commissioners from those of the staff, the following allowances and grants applicable to internationally recruited staff had not been extended to the Chairman and Vice-Chairman of the Commission:

- (a) Dependency allowances;
- (b) Education grant and travel;
- (c) Installation grant;
- (d) Repatriation grant;
- (e) Commutation of accrued annual leave upon separation.

26. The Advisory Committee was of the opinion that "it would not be appropriate, as a matter of principle, for them (the full-time Commissioners) to receive the various grants and allowances which reflect the needs of recruitment and retention of a career international civil service." It indicated that while it would be possible to devise a special system of grants and allowances for them, the Committee doubted the appropriateness of devising such a system for two persons, particularly as it would be impossible to prevent comparisons between such a special system and the corresponding grants and allowances under the United Nations common system. For those reasons, the Advisory Committee recommended that the grants and allowances listed in paragraph 25 above should not be extended to the full-time Commissioners.

27. In paragraph 5 of section VIII of resolution 33/116 B, the General Assembly approved the other conditions of service for the two full-time Commissioners as recommended by the Advisory Committee.

#### C. Post-retirement benefits

28. In 1978, when the question of post retirement benefits was discussed, the Advisory Committee had taken the position in its report (A/33/7/Add.19) that "it would not be appropriate to grant the full-time commissioners any post retirement benefits or repatriation grant". In the view of the Advisory Committee, the General Assembly did not intend that the full-time Commissioners be dependent on the United Nations after they had left the Commission.

29. However, as a result of action taken by the General Assembly in resolution 37/131 of 17 December 1982, the Chairman of ACABQ and Chairman and the Vice-Chairman of ICSC became participants in the United Nations Joint Staff Pension Fund under supplementary article B of the Fund Regulations, with effect from 1 January 1983. The pensionable remuneration of the three officials was set at \$120,000 per year and is subject to adjustment on the same dates and by the same percentage amounts as applicable to staff in the Professional and higher categories under article 54 of the Pension Fund Regulations.

Review of the level of compensation

30. In the last two reviews conducted in 1978 and 1980 to which references were made earlier, tables were provided, comparing the evolution of the compensation of the three officials with those of senior Secretariat officials in New York since the last revision. As mentioned in paragraph 14 above, no differentiation is currently made in the compensation of the three officials according to their dependency status. The table below compares the level of their compensation with those of the senior Secretariat officials in New York for the period January 1981 to September 1983. The remuneration of the latter, which varies according to their dependency status, consists of net base salary, post adjustment and representation allowance (\$4,000 for Under-Secretaries-General and \$3,000 for Assistant Secretaries-General).



Evolution of the annual compensation of the Chairman of ACABQ  
 and the Chairman and Vice-Chairman of ICSC and of the senior  
 Secretariat officials in New York

	<u>Chairmen of</u>	<u>Vice-</u>	<u>Assistant</u>		<u>Under-</u>	
	<u>ACABQ and</u>	<u>Chairman</u>	<u>Secretary-General</u>	<u>Secretary-General</u>	<u>Secretary-General</u>	<u>Secretary-General</u>
	<u>ICSC a/</u>	<u>of ICSC</u>	<u>With</u>	<u>Without</u>	<u>With</u>	<u>Without</u>
	<u>\$</u>	<u>\$</u>	<u>dependant</u>	<u>dependant</u>	<u>dependant</u>	<u>dependant</u>
January 1981	72 000	67 000	64 361	58 906	70 886	64 725
January 1982	77 360	72 360	70 613	64 596	77 699	70 906
January 1983	80 978	75 978	73 530	67 252	80 878	73 790
September 1983	\$80 978 <u>d/</u>	75 978 <u>d/</u>	76 447 <u>b/</u>	69 907 <u>b/</u>	84 057 <u>b/</u>	76 674 <u>b/</u>
	%	%	%	%	%	%
Increase <u>c/</u>	12.5	13.4	18.8	18.7	18.6	18.5

a/ Includes special allowance of \$5,000.

b/ Increase due to change in post adjustment level entered into effect on 1 May 1983.

c/ The larger percentage increases shown for the Vice-Chairman of ICSC over those for the two Chairmen, and for the Assistant Secretaries-General over the Under-Secretaries-General are due to the fact that the additional allowance for the two Chairmen (\$5,000) and the representation allowance of the Under-Secretaries-General and Assistant Secretaries-General (\$4,000 and \$3,000, respectively) have remained unchanged over the period covered.

d/ Under the adjustment procedure described in paragraph 17 of the present report, the annual compensation of the three officials would be increased on 1 January 1984 by 90 per cent of the cost-of-living movement over the past year, should that movement be of a magnitude of 5 per cent or more. However, given the present rate of inflation in New York, it is not likely that the required movement of the cost-of-living will take place; the cost-of-living movement from December 1982 up to August 1983 has been only 2.7 per cent.

/...

31. As can be seen from the above table, apart from the special allowance payable to the two Chairmen, which is dealt with in paragraph 33 below, the interim adjustment procedure adopted by the General Assembly in resolution 35/221 has kept the basic compensation of the three officials at roughly the same relationship to the net remuneration of officials at the Under-Secretary-General and Assistant Secretary-General levels as existed in 1975 when ICSC was established (the extent of the differences varying according to the dates of comparison because of the different adjustment mechanisms in effect).

32. As indicated earlier in paragraph 29, the pensionable remuneration introduced for the three officials upon their entry into UNJSPF on 1 January 1983 was also based on the amounts applicable to the two senior Secretariat levels.

33. As regards the special allowance of \$5,000 payable to the two Chairmen in recognition of their added responsibilities, the Assembly may wish to consider revising the amount, which has remained fixed since it was first established in 1975. This suggestion is made on the basis that, from time to time, some adjustments of the special allowance should be made and therefore, that an increase of the allowance to approximately \$8,000 would be reasonable, thus bringing the total remuneration of each of the two Chairmen to \$83,978 as compared to the net remuneration of \$84,057 currently payable to an Under-Secretary-General with dependants.

34. Due consideration might also be given to providing some form of additional compensation to the Vice-Chairman, in the light of his responsibilities. In this regard, a special allowance of \$2,000 per year for the Vice-Chairman could be considered reasonable.

35. At present, the compensation of the three officials corresponds more closely to the dependency rates of the senior Secretariat officials. The rate for the latter without dependants is approximately 10 per cent less.

36. Introduction of a distinction in compensation according to dependency status would have no immediate effect, since all the incumbents have dependants. In these circumstances, this might be a propitious occasion to establish a separate level of remuneration for full-time officials without dependants rather than to seem to be lowering the entitlement of any future official without dependants upon his or her appointment. It is therefore recommended that the annual compensation for an official without dependants could be set at 90 per cent of the level applicable for officials with dependants, i.e. at current levels, \$68,380 versus \$75,978. The pensionable remuneration, however, would not vary according to dependency status, as pension benefits may be subject to taxation.

#### Review of other conditions of service

37. As mentioned earlier, the Secretary-General in 1978 sought guidance from the General Assembly on which conditions of service other than remuneration should be applicable to the three individuals concerned, "bearing in mind the nature of their duties and responsibilities, the duration of their appointments and the considerable relocation costs incurred by them, particularly in respect of the

education of their children". The response to that request is reflected in the positions expressed by ACABQ and endorsed by the General Assembly in its resolution 33/116 B, to which references were made in paragraphs 23, 24, 26, 27, and 28 above.

38. At the same time, there should be noted three developments which indicate some modification in the approach of Member States to certain conditions of service. First, there was the decision taken last year by the Assembly to include the three officials as well as the members of JIU in UNJSPF; that decision recognized that social security provisions should be extended to full-time officials other than staff members who serve the United Nations for a significant period of time. In that regard, it was felt preferable to do so within existing pension and disability provisions available to the staff rather than attempt to develop separate arrangements for a small number of officials.

39. Second, in the revised travel and subsistence regulations approved last year for the members of ICJ, the Assembly extended the installation grant provisions applicable to senior officials of the Secretariat to those judges who take up residence at The Hague.

40. Third, there was the proposal at the last session by several delegations which led to the decision to request the Secretary-General to undertake this comprehensive review. That proposal was to provide, on an ad hoc basis, an education grant to the Chairman and Vice-Chairman of ICSC and the Chairman of ACABQ. In this regard, it will be recalled that in its review of the scope of coverage of the education grant provisions to staff members, ICSC had concluded that "the education grant should remain solely an expatriate benefit to be granted to all United Nations expatriate officials" (emphasis added). It would appear that the proposal placed before the Fifth Committee last year was intended to recognize the need to assist expatriate officials, including non-staff members, in meeting the extra cost of education of their children arising from their serving outside their respective countries.

41. After careful review of the developments over the years, it seems obvious that the basic principles enunciated in the past should continue to apply, namely, that the compensation and other conditions of service of the full-time officials other than staff members should continue to be set by the General Assembly and that there should be no direct or automatic link to the salary system applicable to the staff of the United Nations common system. At the same time, it is useful to recall the views expressed by the Secretary-General in the comprehensive study undertaken in 1976 on the criteria to be applied to determine the emoluments of the members of ICJ, namely, that "the United Nations system forms, in a sense, a structure within which the interrelationship between the top posts have probably more importance than comparison with positions outside the United Nations". It is for this reason, that the long-standing practice has been to take into account the level of remuneration of senior Secretariat officials in determining the appropriate remuneration for members of organs or subsidiary organs of the United Nations appointed by the United Nations to serve in their individual capacity on a full-time basis.

42. With these considerations in mind, the Secretary-General would suggest that there is a case for extending to the full-time officials certain provisions generally recognized as appropriate and justifiable, especially as regards persons who serve outside their respective countries. In determining these provisions, special attention should be given to the costs and liabilities incurred in respect of:

- (a) Installation at the duty station;
- (b) Education of children;
- (c) Relocation at the completion of service;
- (d) Compensation to survivors in the event of death during service.

43. With respect to (a) above, the Secretary-General considers that the Organization should help defray part of the cost incurred when the full-time official assumes his or her function at the duty station, provided that the individual has not previously resided there while working in another capacity. As indicated in paragraph 39 above, the Assembly approved extending the installation grant provisions to members of ICJ who take up residence at The Hague. Since the installation grant provisions involve the payment of the daily subsistence allowance for a specific number of days, the Secretary-General does not see any difficulty inherent in extending these provisions to the Chairman of ACABQ and the Chairman and Vice-Chairman of ICSC. Such an installation allowance would not be payable in the case of the current incumbents and would apply to their successors only if they were not residing at the duty station at the time of their appointment.

44. The Secretary-General also shares the view expressed by a number of delegations in the Fifth Committee last year that the Organization should extend to the three officials a grant to help meet part of the additional cost of education arising from their expatriate status. Bearing in mind the proposal advanced last year and believing that it is desirable to avoid a complicated arrangement which would apply to only a few officials, the Secretary-General would suggest that the officials be reimbursed for the actual cost of educating their children in respect of each child up to the award of the first recognized degree. The amount of the reimbursement per child might be subject to a ceiling of \$4,500 per school year. It would also seem appropriate to provide for one related travel per year from the place of scholastic attendance outside the country of the duty station to the duty station.

45. As regards entitlements upon completion of their appointments, the Secretary-General believes that, in addition to meeting the cost of travel to their home countries for the three officials and their dependants and for the removal of their household goods and personal effects, the Organization should also provide a relocation allowance in recognition of the additional expenses the officials will incur upon their resettlement to a new location after an extended period of absence. Thus, the Secretary-General would suggest that at the end of their appointment those full-time officials who relocate outside the country of the duty station might receive a lump-sum payment, the amount of which would be expressed in

a number of weeks of annual compensation and vary according to the number of years of service. This lump-sum might be calculated according to the following schedule.

<u>Years of service</u> <u>at the time of separation</u>	<u>Number of</u> <u>weeks of annual</u> <u>compensation</u>
Up to 2	5
3	8
4	11
5	14
6	16
7	18
8	20
9	22
10 or more	24

46. The Secretary-General also believes it desirable to provide some compensation to the survivors in the event of the death of full-time officials other than staff members during their service. In this regard, he would suggest a lump-sum payment equivalent to one month of the annual compensation of the official per year of service, subject to a minimum of three months and a maximum of nine months.

47. In view of the provisions suggested for the education grant which differ from those applicable to staff members and considering the implicit recognition of dependency in the levels of annual compensation, the Secretary-General does not suggest the establishment of a separate scheme of children's or dependency allowances for the full-time officials.

#### Pension arrangements

48. As indicated in paragraph 29 above, the three officials became participants in UNJSPF with effect from 1 January 1983. In his note (A/C.5/37/90) providing the financial implications of such participation, the Secretary-General indicated, in paragraph 9 that "the cost of making their past service count for pension purposes would require the construction of levels of pensionable remuneration for the prior years and an actuarial costing for providing coverage for those years". He further indicated that the applicable periods would be from 1 January 1978 to 31 December 1982 for the two Chairmen and from 7 January 1980 to 31 December 1982 for the Vice-Chairman of ICSC. On the basis of notional pensionable remuneration for the years prior to 1983 constructed from the \$120,000 level established as of 1 January 1983 by reference to the movements of the pensionable remuneration of Assistant Secretaries-General and Under-Secretaries-General over the relevant periods, an actuarial costing for recognition of the prior service has been provided by the consulting actuary of UNJSPF. The portion to be paid by the Organization in respect of the three officials would total \$241,359, i.e., \$81,269 for the Chairman of ACABQ and \$160,090 for the Chairman and Vice-Chairman of ICSC. The latter amount would be shared by the organizations in the United Nations common system who participate in the work of the Commission; the United Nations share is estimated at \$65,000 (see para. 107 below).

49. The same reasons advanced for extending participation in the UNJSPF apply to providing the resources required to recognize service prior to 1 January 1983. The pensions payable to these officials serving before that date should be related to the number of years of full-time service they rendered to the Organization.

## II. Members of the International Court of Justice

### Background information

#### A. Remuneration

50. As indicated in paragraph 3 above, it had been the intention of the Secretary-General to present a report on the pension provisions and other conditions of service of the members of ICJ in the light of representations made to him by the Court. In view of the decision taken by the Assembly last year and referred to in paragraph 1, information is also presented on the evolution of the remuneration of the judges.

51. Article 32 of the Statute of the Court provides, inter alia, that each member of the Court shall receive an annual salary (para. 1), the President shall receive a special annual allowance (para. 2) and the Vice-President shall receive a special allowance for each day on which he acts as President (para. 3). Paragraph 5 of the Article also states that these salaries and allowances "shall be fixed by the General Assembly" and that "they may not be decreased during the term of office".

52. At the request of ACABQ, the Secretary-General submitted to the General Assembly at its thirty-first session in 1976 a comprehensive study (A/C.5/31/13) on the question of the emoluments of the members of the Court, with a view to formulating proposals which would "assure adequate remuneration and eliminate the need for frequent reviews". After reviewing the historical background of the question, including the type of comparisons which had been made in the past to arrive at revisions in the judges' salaries, the Secretary-General concluded that

"there should be no direct and automatic link between the emoluments of the judges and those of senior Secretariat officials. However, because of the complexity of dealing with such matters and considering that the United Nations system forms, in a sense, a structure within which the interrelationship between the top posts is probably more important than comparisons with positions outside the United Nations, it has been a long-standing practice to take into account the level of remuneration of senior Secretariat officials in determining the appropriate remuneration for members of organs or subsidiary organs of the United Nations appointed by the General Assembly to serve in their individual capacity on a full-time basis; the most recent examples were the establishment of the honoraria for the Chairman and Vice-Chairman of the ICSC. Moreover, in the case of the Court, the fact that the Registrar has been assimilated to an Assistant Secretary-General makes it inevitable that the remuneration associated with that post serve as one reference point in assessing the judges' salary."

53. On that basis, the Secretary-General suggested that

"On the occasion of full reviews, as distinct from interim adjustments, the emoluments of the judges should be examined in the light of the changes which have taken place in the remuneration of senior Secretariat officials and of full-time members of other organs or subsidiary organs of the United Nations. As a further indicator, comparisons might also continue to be made, where possible, between the judges' emoluments and those related to the highest judicial post in certain national administrations. On the basis of an assessment of all these factors, as well as others which may be relevant at the time of the review, an independent judgement could be made as to the appropriate level of the judges' salary. In this way, the sui generis situation of the judges could be maintained."

54. The Secretary General also recommended that such reviews might be undertaken every four or five years, with a provision for cost-of-living adjustments in the interim. In the latter connection, the Secretary-General's study included an analysis of eight alternative methods for effecting cost-of-living adjustments based on the use of four different indices (the consumer price index, at The Hague, the post adjustment index at The Hague, the weighted arithmetic average of post adjustment classifications in a number of locations around the world (the WAPA index) and the simple arithmetic average of these post adjustment classifications (the APA index) in relation to varying assumptions as to where the judges spent their salaries (at The Hague, anywhere in the world, partly at The Hague and partly elsewhere). After carefully considering all aspects of those methods, the Secretary-General suggested that the APA index would afford the most appropriate means of adjusting the judges' salary between comprehensive reviews.

55. The General Assembly, acting on the recommendations of the Advisory Committee, which had reviewed the various alternatives advanced by the Secretary-General, decided, by resolution 31/204 of 22 December 1976 that (a) the annual salary of the members of the Court, which had been set at \$50,000, with effect from 1 January 1976 by General Assembly resolution 3537 B (XXX) of 17 December 1975, should next be reviewed at its thirty-fifth session and normally every five years thereafter; (b) between such periodic reviews, the judges would be entitled to receive an interim cost-of-living (COL) supplement which would be reviewed each January, beginning in January 1977, and adjusted, upward or downward, proportionate to changes in the cost-of-living of 5 per cent or more, and (c) the allowances and compensation provided for in Article 32, paragraphs 2-4, of the Statute and retirement pensions of the members of the Court (ibid., para. 7) should be reviewed concurrently with the periodic review of their annual salary, and that the system of interim adjustments should not apply to them.

56. On the occasion of the periodic review in 1980, the Secretary-General in his report (A/C.5/35/33) provided a comparison of the changes which had taken place in the remuneration of the judges with those of senior Secretariat officials (net base salary plus post adjustment at the dependency rates) and those of full-time members of subsidiary organs of the United Nations (the Chairman of ACABQ, the Chairman and Vice-Chairman of ICSC and the members of JIU). He also provided information on the gross emoluments of the President and members of the highest courts in three national judiciaries. On the basis of those comparative data, the Secretary-General concluded that

"the arrangements introduced with effect from 1 January 1977 [the COL supplement and adjustment procedure], have since then provided reasonable protection of the value of the judges' emoluments and have increased the absolute levels of these emoluments to an extent similar to the changes in the emoluments of senior Secretariat officials, of full-time members of subsidiary organs of the United Nations and of persons in the highest judicial posts in certain best-paying national administrations, taking into account the cost-of-living at the locations concerned".

57. At the same time, the Secretary-General observed that an imbalance had evolved between the two components of the judges' emoluments, i.e. the base salary (\$50,000) and the COL supplement (\$24,500), and between the level of total emoluments (\$74,500) and the pension of a retired judge (\$25,000), which, under the pension scheme applicable to the judges, was calculated as one half of the annual base salary. He therefore proposed the consolidation of \$20,000 of the COL supplement into the base salary to increase the latter to \$70,000 per year, with a corresponding decrease in the amount of the supplement. The effect of that proposal was to maintain the level of the emoluments received by the judges until changed on the basis of the movement of the APA index.

58. From 1950 and until 1976, the special annual allowance of the President and the special allowance payable to the Vice-President for every day on which he acts as President had been increased by the same percentage and at the same time as the annual salary. As noted in paragraph 55, the General Assembly decided to introduce, with effect from 1 January 1976, a system of remuneration consisting of an annual base salary and COL supplement. As the allowances are not subject to automatic COL adjustment, there ceased to be a direct relationship between the increases in the total emoluments of the judges and the allowances payable to the President and the Vice-President when acting as President. On the occasion of the comprehensive review in 1980, the Secretary-General did not propose any increase in the allowances. Thus when the General Assembly decided to increase the annual base salary from \$50,000 to \$70,000 as of 1 January 1981, the direct relationship between those allowances and the annual base salary was interrupted. Since 1 January 1976, when they were last revised, these allowances have amounted to \$12,200 for the President and \$76 per day for the Vice-President when he acts as President up to an annual maximum of \$7,600.

59. In its report (A/35/7/Add.10), the Advisory Committee endorsed the proposals made by the Secretary-General and noted that the movement of the APA index would most likely justify an increase in the COL supplement on 1 January 1981. Such increase did take place, bringing the total emoluments payable to a member of the Court to \$82,000 as of that date.

60. The General Assembly, by resolution 35/220 of 17 December 1980, approved the recommendations of the Secretary-General. Thus, the annual base salary of the members of the Court was set at \$70,000 with effect from 1 January 1981, and the COL supplement at \$12,000. The APA indices were rebased so that future increases in the COL supplement would be calculated in relation to the revised annual salary of \$70,000 for movements of 5 per cent or more of the revised index. As ICSC had increased the coverage of the WAPA index applicable to staff in the Professional and higher categories to 51 locations, the Assembly also approved the suggestion of



the Secretary-General that, in the future, APA be calculated on the basis of the same 51 locations and The Hague.

61. There has been no change in the emoluments of the members of the Court since 1 January 1981. Therefore, the annual base salary of the judges is currently \$70,000, the COL supplement is \$12,000, yielding a total net remuneration of \$82,000 per year. The President of the Court continues to receive an additional special allowance of \$12,200 per year, and the Vice-President receives \$76 for every day on which he acts as President, up to an annual maximum of \$7,600.

#### B. Conditions of service

62. The General Assembly, by resolution 37/240 of 21 December 1982, revised the travel and subsistence regulations applicable to the members of ICJ. The revised regulations continue to make a distinction between the entitlements accorded to (a) the President, who is required by Article 22, paragraph 2, of the Statute of the Court to reside at the seat of the Court, and those other members who, in compliance with Article 23 of the Statute, have taken up residence at The Hague and (b) those members of the Court who maintain their primary residence elsewhere.

63. With regard to those members of the Court included under (a) above, the provisions of the original regulations have essentially been maintained, with the inclusion of the entitlement to full removal of household goods and personal effects, and the addition of installation grant provisions similar to those applicable to the senior officials of the Secretariat of the United Nations. For those members of the Court who do not choose to establish their primary residence in The Hague, the revised regulations provide for return journey between their principal place of residence and the Hague for sessions of the Court. In addition, bearing in mind that members of the Court spend, on average, up to seven months of the year in The Hague, the revised regulations allow the President of the Court to authorize the reimbursement of reasonable costs of partial removal of household goods and personal effects between their principal place of residence and the seat of the Court upon taking up their appointment and upon separation, as well as the payment of a reduced installation grant, the amount of which should not exceed one half of the installation grant applicable to the judges who reside at The Hague.

64. The General Assembly also took note of the intention of the Secretary-General to include, with effect from 1 January 1983, the judges under the compensation plan (ST/SGB/103/Rev.1) applicable to members of commissions, committees or similar bodies in the event of death, injury or illness attributable to service with the United Nations.

65. The members of ICJ do not receive any allowance or compensation in respect of:

- (a) Dependency;
- (b) Cost of educating their children;
- (c) Relocation on the completion of service;
- (d) Compensation for survivors in the event of death of serving members of the Court;

C. Post-retirement benefits

66. Pursuant to Article 32, paragraph 7, of the Statute, the judges have a separate non-contributory pension scheme, under which judges who have ceased to hold office and have reached the age of 65 receive a pension equal to one half of their annual salary after completion of a full term, i.e., nine years of service. The amount of the pension at the date of retirement is based on the last annual salary, excluding any COL supplement. For service of less than a full term of nine years, there is a proportionate reduction in the amount of the pension entitlement.

67. As indicated earlier, the General Assembly decided, in resolution 31/204 of 22 December 1976, that the retirement pension given to members of the Court should be reviewed concurrently with the periodic review of their annual salary and that the interim adjustment procedure applicable to the salaries should not apply to pensions.

68. As a result of the consolidation of part of the COL supplement into the base salary on 1 January 1981, which increased the latter from \$50,000 to \$70,000, the prospective pension entitlement of the judges was increased from \$25,000 to \$35,000; in addition, following past practice, the pension benefits of retired judges and their survivors and the maximum child's benefit were increased by 40 per cent, i.e., an amount proportionate to the increase in the base salary and prospective pension entitlement.

69. A copy of the present Pension Scheme Regulations of the International Court of Justice is attached as annex I.

Recent evolution of the remuneration of the judges

70. The Secretary-General, in paragraphs 71 to 75 below, provides an update of the comparative information presented at the time of the last comprehensive review in 1980.

71. Table 1 below shows the movement of the judges' total emoluments in dollar and guilder terms over the period from 1 January 1981 to 1 September 1983 in relation to the movement of the APA index, the post adjustment index at The Hague and the Netherland consumer price index.

72. The APA index for September 1983 reflected an increase over the base level on 1 January 1981 of only 2.4 per cent. Because of the increase in the value of the dollar, the APA movement has declined from 3.9 per cent as of January 1982 to the current 2.4 per cent. This would indicate that it is unlikely that there will be any change in the amount of the COL supplement or in the total remuneration of the judges when the January 1984 level of the APA index is reviewed.

Table 1

	<u>January 1981</u>	<u>January 1982</u>	<u>January 1983</u>	<u>September 1983</u>
<u>Total emoluments</u>				
Net base salary (\$US)	70 000	70 000	70 000	70 000
COL supplement (\$US)	<u>12 000</u>	<u>12 000</u>	<u>12 000</u>	<u>12 000</u>
Total (\$US)	<u>82 000</u>	<u>82 000</u>	<u>82 000</u>	<u>82 000</u>
Guilder equivalent (exchange rate)	173 840 (2.12)	205 000 (2.50)	213 200 (2.60)	241 900 (2.95)
<u>Index of emoluments movement</u> (January 1981 = 100)				
US dollars	100.0	100.0	100.0	100.0
Guilders	100.0	117.9	122.6	139.2
<u>Cost-of-living indices</u> (January 1981 = 100)				
APA index (52 cities) (January 1981 = 100)	100.0	103.9	103.6	102.4
PA index for The Hague	100.0	93.1	94.3	87.4
Netherlands CPI	100.0	106.0	107.3	108.9 (July 1983)

73. Table 2 below compares the changes which have taken place in the remuneration of the members of the Court with those of senior Secretariat officials (net base salary plus post adjustment at dependency rates and representation allowance) and those of full-time members of other subsidiary organs of the United Nations (the Chairman of ACABQ, the Chairman and Vice-Chairman of ICSC). These changes should be assessed in relationship to the change in the post adjustment index at each of the locations for the senior Secretariat officials and the change in the cost-of-living index for New York for the Chairman and Vice-Chairman of ICSC and the Chairman of ACABQ which are shown in the last column of the table. All data are provided at the dependency rate.

74. As can be seen, the strengthening of the United States dollar has resulted in a decrease in the dollar remuneration of senior Secretariat officials at The Hague and Geneva.

Table 2

	January <u>1981</u>	January <u>1982</u>	January <u>1983</u>	September <u>1983</u>	PA index movement (Jan. 1981 = 100)
	(In United States dollars)				
<u>Members of ICJ a/</u>	82 000	82 000	82 000	82 000	
Index	100.0	100.0	100.0	100.0	
<u>Senior Secretariat officials</u>					
ASG at The Hague <u>b/</u>	84 366	79 364	80 198	75 197	
Index	100.0	94.1	95.1	89.1	87.4
USG at Geneva <u>c/</u>	97 229	100 402	98 591	94 049	
ASG at Geneva <u>b/</u>	88 533	91 451	89 784	85 616	
Index	100.0	103.3	101.4	96.7	96.2
USG at New York	70 886	77 698	80 878	84 057	
ASG at New York <u>b/</u>	64 361	70 612	73 530	76 447	
Index	100.0	109.6	114.1	118.6	123.0
<u>Full-time members of subsidiary organs</u>					
Chairman of ACABQ <u>d/</u>	72 000	77 360	80 978	80 978	
Index	100.0	107.4	112.5	112.5	118.1 <u>e/</u>
Chairman of ICSC <u>d/</u>	72 000	77 360	80 978	80 978	
Index	100.0	107.4	112.5	112.5	118.1 <u>e/</u>
Vice-Chairman of ICSC	67 000	72 360	75 978	75 978	
Index	100.0	108.0	113.4	113.4	118.1 <u>e/</u>
Members of JIU (serving in Geneva and receiving remuneration of an official at level D-2 step IV)	75 915	78 504	77 024	73 326	
Index	100.0	103.4	101.5	96.6	96.2

a/ In addition, the President of the Court receives a special allowance of \$12,200 per year.

b/ Includes representational allowance of \$3,000 per year.

c/ Includes representational allowance of \$4,000 per year.

d/ Includes an additional special allowance of \$5,000 per year.

e/ Cost-of-living movement in New York as measured from November 1980 to July 1983, based on using November indices to determine following January adjustments.

/...

75. Table 3 provides information, obtained with the assistance of the Permanent Missions of the countries concerned, on the current gross emoluments of the President and members of the highest courts in the three national judiciaries, as compared to those in effect in 1981.

Table 3

<u>United States Supreme Court</u>	<u>1981</u>		<u>1983</u>	
	<u>Chief Justice</u>	<u>Assoc. Justice</u>	<u>Chief Justice</u>	<u>Assoc. Justice</u>
\$US	92 400	88 700	100 700	96 700
Pension	Non-contributory scheme; amount of pension equal to full salary if either (a) retirement at age 70 or over with minimum 10 years' service or (b) retirement at age 65 with minimum of 15 years' service.			

<u>Supreme Court of Canada</u>	<u>1981</u>		<u>1983</u>	
	<u>Chief Justice</u>	<u>Member</u>	<u>Chief Justice</u>	<u>Member</u>
\$Can	94 100 <u>b/</u>	86 600 <u>c/</u>	106 600 <u>b/</u>	98 100 <u>c/</u>
\$US <u>a/</u>	79 076	72 773	86 667	79 756
Pension	Contributions prior to February 1976 at 1.5 per cent of salary; after 1976 at 7.5 per cent of salary; amount of pension equal to two thirds of final salary if either (a) retirement at age 70 with minimum of 10 years' service or (b) retirement at age 65 with minimum of 15 years' service. Mandatory retirement at age 75.			

<u>United Kingdom</u>	<u>1981</u>		<u>1983</u>	
	<u>Lord Chief Justice</u>	<u>Master of the Rolls</u>	<u>Lord Chief Justice</u>	<u>Master of the Rolls</u>
£	37 000	37 000	52 500	48 250
\$US <u>a/</u>	82 405	82 405	84 677	77 823
Pension	Non-contributory scheme; amount of pension equal to 50 per cent of final salary after minimum of 15 years' service.			

a/ Exchange rates in effect on 1 January 1981 and 1 January 1983 were used to convert the local currency amounts into United States dollars.

b/ In addition entitled to a representational allowance of \$Can 5 000.

c/ In addition entitled to a representational allowance of \$Can 2 500.

76. The information contained in the three tables indicates that the adjustment arrangements introduced in January 1977 continue to provide reasonable protection of the value of the judges' emoluments in relation to the changes in the emoluments of senior Secretariat officials, full-time members of subsidiary organs of the General Assembly and persons in the highest judicial posts in three of the best-paying national administrations, taking into account the cost-of-living at the locations where they serve and the current value of the United States dollar in relation to the situation existing at the time of the last comprehensive review.

Review of other conditions of service

77. It should be noted, however, that the special annual allowance payable to the President of the Court, which is provided under article 32, paragraph 2, of its Statute, has not been included in the above comparisons. Throughout the history of the Court and until 1 January 1981, the allowance remained at a consistent proportion (24 per cent) of the annual base salary. The present level, however, is only 17.4 per cent, since, when the annual base salary was raised by 40 per cent as from 1 January 1981 (see para. 58), no corresponding increase was made in the President's allowance. In the light of the foregoing, it is suggested that the relationship between the special allowance and the annual base salary be re-established at the level existing prior to 1 January 1981. Consequently, the General Assembly may wish to consider raising the allowance from its present level of \$12,200 to \$16,800 as of 1 January 1984. A corresponding increase would also be applied to the special allowance of the Vice-President, which would be raised from \$76 per day to \$104.

78. The Secretary-General has received suggestions from ICJ regarding the provision of certain allowances to members of the Court in relation to the following:

- (a) Dependant children;
- (b) Cost of education for their children;
- (c) Relocation on completion of service;
- (d) Compensation to survivors in the event of death of a serving member of the Court.

No proposals were made by ICJ, however, as regards specific amounts or eligibility criteria.

79. As indicated in paragraph 42 above, some importance should be attached to the factor of expatriation in determining entitlements. In the case of the members of the Court, there is a need to define, for this purpose, the expatriation criteria. In the revised travel and subsistence regulations of the International Court of Justice, adopted by the General Assembly in resolution 37/240, a distinction is made between the travel and related entitlements of "(a) the President, who is required by Article 22, paragraph 2, of the Statute of the Court to reside at the seat of the Court and those other members who, in compliance with Article 23 of the Statute, have taken up residence at The Hague and (b) those members of the Court who maintain their primary residence elsewhere."

80. Through this distinction, the Assembly recognized that the President and those judges who took up residence at The Hague, in changing their primary residence, were incurring extra expenses normally incurred by expatriate officials, while the same could not be said for the other judges who maintained their primary residences elsewhere. Under these circumstances, it seems logical to apply the same distinction in determining entitlements to the expatriate-related provisions dealt with below.

81. Bearing in mind (a) the decision of the General Assembly to extend to the President and those judges who establish their primary residences at The Hague the installation grant provisions applicable to senior officials of the Secretariat, (b) the suggestions made by the Court and (c) the suggestion made in paragraphs 44 and 45 in respect of the Chairman of ACABQ and the Chairman and Vice-Chairman of ICSC, the Secretary-General believes that there is a case for extending to the President and those judges who have established their primary residences at The Hague certain provisions recognized as appropriate and justifiable for persons serving outside their respective countries on a continuing basis. In determining such provisions, special attention should be given to the costs incurred in respect of (a) educating children and (b) relocation on the completion of service.

82. As indicated in paragraph 44, the Secretary-General shares the views expressed by a number of delegations in the Fifth Committee last year that the Organization should provide a grant to help meet part of the additional cost of education arising from the expatriate status of the officials concerned.

83. Consequently, the Secretary-General would suggest that the President and members of the Court who have taken up residence in The Hague be reimbursed for the actual cost of educating their children in respect of each child up to the award of the first recognized degree. The amount of reimbursement per child might be subject to a ceiling of \$4,500 per school year. It is also suggested that provision be made for one related travel per year from the place of scholastic attendance when outside the Netherlands to The Hague. Upon the completion of their appointment with the Court, the judges who established their primary residence in The Hague will undoubtedly incur additional expenses upon their resettlement in a new location after an extended period of having their primary residence at The Hague. The Secretary-General therefore suggests that, upon provision of evidence of relocation outside the Netherlands, the members of the Court who have taken up residence at The Hague might receive a lump-sum payment, the amount of which would be expressed in number of weeks of base salary and would vary according to their number of years of service at the Court. The lump sum might be calculated according to the following schedule:

<u>Years of service</u> <u>at the time of separation</u>		<u>Number of weeks of</u> <u>annual compensation</u>
Up to	2	5
	3	8
	4	11
	5	14
	6	16
	7	18
	8	20
	9	22
	10 or more	24

84. The Secretary-General also believes it desirable to provide some compensation to the survivors in the event of the death of a member of the Court during his service. Consequently, he would suggest that a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months. This would apply in the case of all members of the Court.

85. For reasons similar to those advanced in paragraph 47, the Secretary-General does not suggest the establishment of a separate scheme of children's or secondary dependant's allowance for the members of the Court.

#### Post-retirement benefits

86. The Secretary-General has received suggestions from the Court to amend certain provisions of their present Pension Scheme Regulations as follows:

(a) The normal minimum age at which pension may be payable, presently 65, and the minimum of five years of service (or three years for the judges elected to fill a casual vacancy) should be abolished.

(b) The amount of the disability pension should be equal to the pension which would have been payable to the judge concerned had he or she completed the term of office for which he or she had been elected. In the case of judges elected for less than nine years, the disability pension should not be less than one quarter of the annual base salary.

(c) In the case of the surviving spouse of a judge elected for less than nine years, the pension should not be less than one sixth of the annual base salary.

(d) There should be a provision concerning incapacitated dependent children, and the ceiling of the pension payable to a dependent child during the lifetime of the surviving spouse should be calculated in terms of percentage of the base salary.

(e) There should be a system of automatic adjustment of pensions between two consecutive five-year reviews, and there should be transitional provisions providing for the raising of present pensions on the basis of the new scheme.

87. In reviewing these proposals, a number of considerations have to be borne in mind. As was indicated in paragraph 41, the observation has been made that the interrelationship between the top posts in the United Nations system have probably more importance than comparison with positions outside the United Nations. In so far as pensions are concerned, the General Assembly, at its thirty-seventh session, decided to include the Chairman of ACABQ, the Chairman and Vice-Chairman of ICSC, and the members of JIU in UNJSPF.

88. Given the position of the Court and the special nature of the terms of service of its members, it can be expected that there would be some essential differences between the Regulations of the pension scheme for the members of ICJ and UNJSPF. Nevertheless, the Secretary-General is of the view, on overall grounds of social policy, that the benefits available to former judges or their survivors should be comparable to those granted to the above-mentioned officials.



89. On this basis, certain benefit provisions of the ICJ Pension Scheme Regulations should be amended.

#### Retirement age

90. As regards the abolition of the normal minimum age at which a pension may be payable, presently 65, the purpose of a pension is to provide a source of income upon retirement from employment. With this consideration in mind, a strong case does not seem to exist for the payment of retirement pensions to judges when they leave office without regard to their age at the time.

91. It should be noted, however, that (a) under the UNJSPF Regulations a retirement benefit is payable to a participant whose age on separation is 60 years or more and whose contributory service was five years or longer and (b) in the original ICJ Pension Scheme Regulations adopted by the General Assembly in 1946, a pension was payable when the member of the Court reached the age of 60. This minimum age was changed to 65 by the General Assembly in resolution 1562 (XV) of 18 December 1960 to take into account the information then available regarding the practice of some judiciaries.

92. All circumstances considered, the Secretary-General sees merit in changing from 65 to 60 the normal minimum age at which pension may be payable to members of ICJ.

#### Minimum period of service

93. At present, five years is the minimum period of service for members of the Court to be eligible for a retirement pension, except for those members elected to fill a casual vacancy for a term which is less than five years but more than three years. In the latter cases, the minimum period of service required for pension purposes is three years.

94. Most pension schemes have a minimum period of service requirement, including UNJSPF. Such a requirement should also be retained in respect of the judges, but a reduction in the minimum period of service from five to three years would be reasonable and justified, considering the average age of the members of the Court on appointment in the past, which is unlikely to change significantly in the future. Such a change would extend to all judges the same three-year minimum service requirement for payment of a retirement pension as currently applies to judges elected to fill a casual vacancy.

#### Disability pension

95. At present, the disability pension payable to a member of the Court corresponds to the pension which would be payable on the same date in the case of retirement. Thus, judges who are disabled and have not served a full term of nine years have their disability pensions proportionally reduced according to their years of service, subject to a floor provision that the disability pension cannot be less than one quarter of the annual salary. The amount of the disability pension also serves as the basis for calculating the surviving spouse's pension and/or the child's benefits whenever a judge dies in office.

96. Under the relevant provisions of UNJSPF, if the age of the participant on entitlement is 60 years or more, the disability benefit corresponds to the standard or minimum rate for a retirement benefit as the case may be; if the age of the participant is less than 60, the disability benefit corresponds to the rate of retirement benefit which would have been payable had the participant remained in service until age 60 and had his final average remuneration remained unchanged. Thus, participants incapacitated for further service receive a benefit based on their service expectations rather than on the years of actual service at the time of the disability.

97. In the light of the above, it is recommended that the Pension Scheme Regulations of the Court be amended to provide that the disability benefit shall correspond to the rate of the retirement pension which would have been payable had the judge completed the term of office to which he or she was elected and had the annual salary remained unchanged, subject to the present floor provision that it would not be less than one quarter of annual salary.

98. Upon the death of a married member of the Court, the present Regulations provide for a pension for the surviving spouse amounting to one half of the pension which would have been received had the judge become entitled to a disability pension at the time of death, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary. The suggestion made in the previous paragraph would also have the effect of providing a marked and justified improvement in the pension of a surviving spouse over the present provisions, whereby surviving spouses have often received minimal pensions.

#### Child's benefit

99. The present Regulations provide that each child or legally adopted child of a member or former member who dies shall be entitled, while unmarried or under the age of 21, to a benefit. Where there is the surviving spouse entitled to a pension, the child's benefit is calculated at 10 per cent of the actual retirement pension of the former member or 10 per cent of the prospective pension of the member who died while in office, subject to a ceiling amount of \$1,200 per year. If there is no surviving spouse entitled to pension or if the spouse dies, the child's benefit is increased by one half of the actual or potential spouse benefit if there is one child and by the full amount of that benefit if there are two or more eligible children.

100. Unlike the situation under the Regulations of UNJSPF, there does not, at present, exist any provision in the judges' scheme for continued payment of the child's benefit beyond age 21 if the child is incapacitated. In the case of the UNJSPF, a benefit is paid for an incapacitated child on reaching the age of 21 (a) if immediately prior thereto a child benefit was payable or (b) if the child is incapacitated at the time of the participant's death in service or entitlement to a benefit. The Secretary-General suggests that a similar provision should be introduced in the Pension Scheme Regulations of the Court.

101. A ceiling provision for the child's benefit also exists in the Regulations of UNJSPF. At present the maximum, which is adjusted according to the procedures

applicable to pensions, amounts to \$1,437 per year. The maximum amount of the child's benefit in respect of the Court was revised to \$1,200 by the General Assembly in resolution 35/220 B. The increase of 40 per cent corresponds to the adjustment approved for pension entitlements and pensions in payment.

102. It is therefore suggested that the Pension Scheme Regulations of the Court be amended to provide that the maximum child's benefit shall be adjusted by amounts proportional to changes in the annual base salary of the judges to reflect the practice followed heretofore. This would avoid the need for the Assembly to consider separately the matter on the occasion of its comprehensive reviews of the salaries of the judges. This ceiling amount could be set at 1/36 of the annual salary, which, on the basis of the present annual base salary of \$70,000, would increase the current maximum from \$1,200 to \$1,944.

#### Pensions in payment and adjustment procedure

103. In resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to the members of the Court should be reviewed concurrently with the periodic review of the annual salary and that the system of interim adjustments should not apply to them.

104. As in the case of the child's benefit referred to in paragraphs 99-102 above, it is recommended that the relevant article of the Pension Scheme Regulations of the Court be revised to provide that pensions in payment to former members of the Court or to surviving spouses shall be adjusted by amounts proportional to the changes in the annual salary and, hence, the pension entitlements of members of the Court. This would reflect the practice followed since 1972.

105. Finally, it would be appropriate to use, in the revised version of the Pension Scheme Regulations of the Court, the words "annual base salary" rather than the present "annual salary" to reflect more accurately the present situation in which a distinction is made between the salary and the cost-of-living supplement payable to members of the Court.

106. The proposed amendments to the present Pension Scheme Regulations of the Court are contained in annex II.

#### Financial implications

107. In summary, should the General Assembly approve the proposals contained in paragraphs 33, 34, 43-46 and 48 above, it is estimated that the financial implications of the proposed changes for the 1984-1985 biennium in respect of the Chairman of ACABQ and the Chairman and Vice-Chairman of ICSC would amount to \$379,100 as follows:

	<u>Section 1</u>	<u>Section 28L.1</u>		<u>Total</u>
	<u>Chairman</u>	<u>Chairman</u>	<u>Vice-Chairman</u>	
	<u>ACABQ</u>	<u>ICSC</u>	<u>ICSC</u>	
	\$	\$	\$	\$
(a) Special allowances (paras. 33 and 34)	6 000	6 000	4 000	16 000
(b) Reimbursement of education costs and related travel (para. 44)	45 000	9 000	36 000	90 000
(c) Relocation allowance (para. 45)	31 700 <u>a/</u>	-	-	31 700
(d) Pension arrangement (para. 48)	81 300 <u>b/</u>	110 700 <u>b/</u>	49 400 <u>b/</u>	241 400 <u>b/</u>
(e) Installation allowance	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b>Total</b>	<u><u>164 000</u></u>	<u><u>125 700</u></u>	<u><u>89 400</u></u>	<u><u>379 100</u></u>

a/ Should the current Chairman of ACABQ, whose term of office expires at 31 December 1985, leave this post, he will be entitled to a relocation grant.

b/ Non-recurrent costs (organization contributions for validation of past service for the period 1 January 1978 to 31 December 1982, for the two Chairmen, and from 7 January 1980 to 31 December 1982, for the Vice-Chairman of ICSC).

108. It should be noted that the costs of \$125,700 and \$89,400 estimated for the Chairman and Vice-Chairman of ICSC, respectively, would be shared by the organizations in the United Nations common system. In respect of the Chairman of ACABQ, the amount of \$31,700 relating to the relocation allowance would not be requested, in view of the uncertainty attached to the assumption underlying the estimate. Taking these factors into account, should the General Assembly adopt the above proposals, provision would have to be made under sections 1 and 28L.1 in the amounts of \$132,300 and \$215,100, respectively, the latter amount to be partially offset by a provision of \$128,600 under income section 2.

109. As regards the proposals for an installation allowance (para. 43) and the relocation allowances for the Chairman and Vice-Chairman of ICSC (paras. 45 and 46), no additional appropriations are requested at this time, as they are not required in respect of the current incumbents for the 1984-1985 biennium.

110. In respect of the members of ICJ, should the General Assembly approve the proposals contained in this report, financial implications are estimated at \$147,000, of which \$26,300 represents non-recurring costs for relocation allowances as follows:

(a) President's special allowance (para. 77)	9 200
(b) Reimbursement of education costs and related travel (para. 83)	48 000 <u>a/</u>
(c) Relocation allowances (para. 83)	26 300 <u>b/</u>
(d) Change in the minimum age at which pensions may be payable (para. 94)	14 000 <u>c/</u>
(e) Pensions of surviving spouses (para. 98)	45 000
(f) Child's benefit (para. 102)	<u>4 500</u>
Total	<u><u>147 000</u></u>

---

a/ On the basis of the entitlement to education grant of five judges currently residing in The Hague and on the assumption that the terms of two of those judges currently entitled will expire in February 1985.

b/ Should the two judges currently residing in The Hague whose terms of office expire in February 1985 leave the Court, they would be entitled to relocation allowance.

c/ Should the two judges who would reach the age of 60 in 1985 and whose terms of office expire in February 1985 leave the Court, they would be entitled to pensions without actuarial reduction.

111. In view of the uncertainty attached to the assumptions underlying these estimates, no additional appropriations would be requested at this time. However, additional requirements, if any, would be reviewed in the context of the first programme budget performance report for the 1984-1985 biennium.

#### Next comprehensive review

112. In accordance with the decisions taken by the General Assembly in paragraphs 1 and 3 of resolution 31/204 of 22 December 1976 in respect of the periodic review of the annual salary, allowances and pensions of the members of the Court and in paragraph 2 of resolution 35/221 of 17 December 1980, in respect of the review of the compensation and other conditions of service of the Chairman of ACABQ and the full-time members of ICSC, the next comprehensive review by the Assembly will be undertaken at its fortieth session in 1985.

Annex I

PENSION SCHEME REGULATIONS OF THE INTERNATIONAL COURT OF JUSTICE

(General Assembly resolution 1562 (XV) of 18 December 1960, as amended by resolutions 1925 (XVIII) of 11 December 1963, 2367 (XXII) of 19 December 1967, 2890 A (XXVI) of 22 December 1971, 3193 A (XXVIII) of 18 December 1973, 3537 A (XXX) of 17 December 1975 and 35/220 of 17 December 1980)

ARTICLE I

Retirement pension

1. A member of the International Court of Justice who has ceased to hold office and who has reached the age of sixty-five shall be entitled during the remainder of his life, subject to paragraph 4 below, to a retirement pension, payable monthly, provided that he has:

(a) Completed at least five years of service;

(b) Not been required to relinquish his appointment under Article 18 of the Statute of the Court for reasons other than the state of his health.

2. The amount of the retirement pension shall be determined as follows:

(a) If the member has served a full term of nine years, the amount of the annual pension shall be one half of the annual salary;

(b) If he has served for more than nine years, the amount of the pension shall be increased by 1/300 of the amount payable under paragraph 2 (a) for each month of service in excess of nine years, provided that the maximum retirement pension shall not exceed two thirds of his annual salary;

(c) If he has served for less than a full term of nine years, the amount of the retirement pension shall be that proportion of one half of the annual salary which the number of months of his actual service bears to 108.

3. A member who ceases to hold office before the age of sixty-five and who would be entitled to a retirement pension when he reached that age may elect to receive a pension from any date after the date on which he ceases to hold office. Should he so elect, the amount of such pension shall be that amount which has the same actuarial value as the retirement pension which would have been paid to him at the age of sixty-five.

4. No retirement pension shall be payable to a former member who has been re-elected to office until he again ceases to hold office. At that time, the amount of his pension shall be calculated in accordance with paragraph 2 above on

the basis of his total period of service and shall be subject to a reduction equal in actuarial value to the amount of any retirement pension paid to him before he reached the age of sixty-five.

## ARTICLE II

### Disability pension

1. A member found by the Court to be unable to perform his duties because of permanent ill-health or disability shall be entitled upon leaving office to a disability pension payable monthly.
2. The amount of the disability pension shall be determined as in article I, paragraph 2, provided that it shall not be less than one quarter of the annual salary.

## ARTICLE III

### Widow's pension

1. Upon the death of a married member, his widow shall be entitled to a widow's pension amounting to one half of the pension which he would have received had he become entitled to a disability pension at the time of his death, provided that the widow's pension shall not be less than one sixth of the annual salary.
2. Upon the death of a married former member who was in receipt of a disability pension, his widow, provided she was his wife at the date his service ended, shall be entitled to a widow's pension amounting to one-half of the pension which her husband was receiving, provided that the widow's pension shall not be less than one sixth of the annual salary.
3. Upon the death of a married former member who was entitled to a retirement pension, his widow, provided she was his wife at the date his service ended, shall be entitled to a widow's pension calculated as follows:
  - (a) If the former member had not begun, at the date of his death, to receive his retirement pension, the widow's pension shall amount to one half of the pension which would have been payable to him under article I, paragraph 3, had he commenced to receive such pension on the date of his death, provided that the widow's pension shall not be less than one twelfth of the annual salary;
  - (b) If the former member had begun to receive his retirement pension, under article I, paragraph 3, before he reached the age of sixty-five, the widow's pension shall amount to one half of the amount of such pension but shall not be less than one twelfth of the annual salary;

(c) If the former member had reached the age of sixty-five when he began to receive his retirement pension, the widow's pension shall amount to one half of his retirement pension but shall not be less than one sixth of the annual salary.

4. A widow's pension shall cease on her remarriage.

#### ARTICLE IV

##### Child's benefit

1. Each child or legally adopted child of a member or former member who dies shall be entitled, while unmarried and under the age of twenty-one, to a benefit calculated as follows:

(a) Where there is a widow entitled to a pension under article III, the annual amount of the child's benefit shall be:

- (i) Ten per cent of the retirement pension which the former member was receiving; or
- (ii) If the former member had not begun, at the date of his death, to receive his retirement pension, 10 per cent of the pension which would have been payable to him under article I, paragraph 3, had he commenced to receive such pension on the date of his death; or
- (iii) In the case of the death of a member in office, 10 per cent of the pension which he would have received had he qualified for a disability pension at the date of his death;

provided, in all cases, that the amount of the child's benefit should not exceed \$1,200 a year;

(b) Where there is no widow entitled to a pension under article III, or where the widow dies, the total amount of the children's benefits payable under subparagraph (a) above shall be increased by the following amount:

- (i) If there is only one eligible child, by one half of the amount of the pension which was being paid or would have been paid to the widow;
- (ii) If there are two or more eligible children, by the amount of the pension which was being paid or would have been paid to the widow;

(c) The total children's benefits payable under subparagraph (b) above shall be divided equally among all the eligible children to determine the amount of any one child's benefit; as and when a child ceases to be eligible, the total benefit payable to the remainder shall be recalculated in accordance with subparagraph (b).

2. The total amount of children's benefit, when added to the amount of any widow's benefit in payment, shall not exceed the pension which the former member or member received or would have received.



ARTICLE V

Special provisions

1. Notwithstanding the provisions of article I, paragraph 1 (a), a member elected to fill a casual vacancy who holds office for the remainder of his predecessor's term, where such remaining term is less than five but not less than three years, shall on retirement, after completion of that term and provided that he is not subsequently re-elected, be entitled during the remainder of his life, and subject to article I, paragraph 4, to a retirement pension, payable monthly, calculated in accordance with article I, paragraph 2 (c).
2. Upon the death of a married former member who was entitled to a retirement pension under paragraph 1 above, his widow and children shall be entitled to the appropriate benefit provided under article III, paragraph 3, and article IV, subject to the conditions described therein but without the application of the related minima provisions.

ARTICLE VI

Definitions

1. "Member" means either the President, the Vice-President or a member of the Court in office.
2. "Annual salary" means the annual salary, exclusive of any allowances, fixed by the General Assembly and received by the member at the time he ceased to hold office.

ARTICLE VII

Miscellaneous provisions

1. Pensions provided for by the present Regulations shall be calculated in terms of the currency in which the salary of the member concerned has been fixed by the General Assembly.
2. All pensions provided for by these Regulations shall be regarded as expenses of the Court, within the meaning of Article 33 of the Statute of the Court.
3. The President of the Court and the Secretary-General shall establish a table of actuarial reduction factors on the advice of a qualified actuary or actuaries.

ARTICLE VIII

Application and effective date

1. The present Regulations shall be applicable as from 1 January 1968 to all who are members of the Court on or after that date and to their eligible beneficiaries.
2. Former members of the Court who left office prior to 1 January 1968, or their eligible beneficiaries, shall continue to have their entitlements governed by the Regulations approved in General Assembly resolution 1562 (XV) or 1925 (XVIII), as the case may be, except that the revised provisions of article III and the consequential changes under article IV shall be applicable as from 1 January 1968 to all relevant entitlements, regardless of the date on which the said entitlements first became payable.

Annex II

PROPOSED AMENDMENTS TO THE PENSION SCHEME REGULATIONS OF THE  
INTERNATIONAL COURT OF JUSTICE

ARTICLE I

Retirement pension

Replace "the age of sixty-five" by "the age of sixty" wherever the term appears.

In paragraph 1 (a), replace "five years of service" by "three years of service".

ARTICLE II

Disability pension

Replace paragraph 2 by the following text:

"2. The amount of the disability pension shall be equal to the amount of the retirement pension which would have been payable to the member of the Court concerned had he, at the time of leaving office, completed the term for which he had been elected, provided that it shall not be less than one quarter of the annual salary".

ARTICLE III

Widow's pension

In paragraph 3 (b) and (c), replace the "age of sixty-five" by "the age of sixty".

ARTICLE IV

Child's benefit

In paragraph 1 (a), last line, replace "1,200 dollars a year" by "one thirty sixth of the annual base salary".

Add the following new paragraph 3:

"3. The age-limit mentioned in paragraph 1 above shall be waived if the child is incapacitated by illness or injury, and the benefit shall continue to be paid for as long as the child remains incapacitated."

ARTICLE V

Special provisions

To be deleted.

ARTICLE VI

Definitions

Renumber as article V.

Replace paragraph 2 by the following text:

"2. "Annual salary" means the annual base salary, exclusive of any allowances, fixed by the General Assembly and received by the member at the time he ceased to hold office."

ARTICLE VII

Miscellaneous provisions

Renumber as article VI.

Replace paragraph 3 by the following text:

"3. The President of the Court and the Secretary-General shall determine conditions for the application of article IV, paragraph 3, and, on the advice of a qualified actuary or actuaries, establish a table of actuarial reduction factors."

ARTICLE VIII

Application and effective date

Renumber as article VII.

Replace entire article with the following text:

"1. The present Regulations shall be applicable as from 1 January 1984 to all who are members of the Court on or after that date, to their eligible beneficiaries and to recipients of pensions or benefits under article III or IV of the Regulations adopted on 19 December 1967.

"2. Pensions in payment shall be automatically revised by the same percentage and at the same date as pension entitlements.

"3. Former members of the Court who left office prior to 1 January 1968, or their eligible beneficiaries, shall continue to have their entitlements governed by the Regulations approved in General Assembly resolution 1562 (XV) or 1925 (XVIII), except that in their case, the revised provisions of article III approved in General Assembly resolution 2367 (XXII) and the consequential changes in article IV shall continue to be applicable to all relevant entitlements, regardless of the date on which the said entitlements first became payable."

-----