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GENERAL  
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ORIGINAL ENGLISH

COMMITTEE 6

MEMORANDUM CONCERNING THE INTERNATIONAL  
COURT OF JUSTICE

Submitted by the Secretariat of Sixth Committee

1. PREMISES OF THE INTERNATIONAL COURT OF JUSTICE

1. According to Article 22 of the Statute, the seat of the Court shall be established at The Hague. The Permanent Court of International Justice was, according to its Statute, established also in The Hague where it used the premises in the Peace Palace. The exchange of the following declarations constituted the permanent legal basis for the establishment of the Permanent Court of International Justice at the Peace Palace at The Hague:

"The Secretary General of the League of Nations:

"Whereas the Assembly of the League has adopted the Statute of the Permanent Court of International Justice already approved by the Council;

"Whereas the said Statute has come into force in accordance with the conditions laid down therein and the judges composing the Court have been duly elected;

"Whereas, according to the Statute, the seat of the Court is established at The Hague and the Statute has been ratified by the Netherlands Government;

"Whereas, since the Court is to be established in that city it is desirable on both practical and cultural grounds that it should be installed in the Peace Palace;

"Whereas the Budget of the Court for the year 1922 adopted by the Assembly of the League of Nations makes provision for a credit to cover the annual expense involved by the establishment of the Court and in the explanatory table attached to the Budget this credit is fixed at 50,000 Dutch florins, in view of the possible establishment of the Court in the Peace Palace;

"Whereas the Carnegie Foundation is responsible for the administration and upkeep of this Palace;

"Declares that, in the event of the Permanent Court of International Justice being established in the Peace Palace

at The Hague, the League of Nations will pay to the Carnegie Foundation, to indemnify it for expenses resulting from the use of the Peace Palace by the Court, the annual sum of 50,000 florins, the conditions governing the Court's establishment in and utilisation of the Palace being defined by an agreement regulating the relations between the Foundation on the one hand and the League of Nations and the Court on the other.

"In testimony of which the Secretary-General of the League of Nations has signed the present declaration.

"Done at Geneva, 15 November 1921."

"The Carnegie Foundation:

"Whereas, under the terms of the Foundation's charter dated 7 October 1903, its object is the erection and upkeep at The Hague of a Palace of Justice and library for the Permanent Court of Arbitration established by the Convention of 29 July 1899;

"Whereas Mr. Andrew Carnegie's express purpose in creating this Foundation was to serve the interests of peace between the nations;

"Whereas the Permanent Court of International Justice created by the League of Nations constitutes an additional means for the fulfilment of Mr. Carnegie's object;

"In view of the declaration of the Secretary-General of the League of Nations to the effect that in the event of the establishment of the Permanent Court of International Justice in the Peace Palace at The Hague, the League of Nations will pay to the Carnegie Foundation, to indemnify it for expenses resulting from the use of the Palace by the Court, the annual sum of 50,000 florins, the conditions governing the Court's establishment in and utilisation of the Palace being defined by an agreement regulating the relations between the Foundation on the one hand and the League of Nations and the Court on the other;

"Invites the Permanent Court of International Justice to establish itself in the Peace Palace at The Hague."

2. The Executive Secretary in a letter dated 20 December 1945, to the Secretary of the Board of Directors of the Carnegie Foundation at The Hague expressed the view that it would be desirable for the International Court of Justice to use the premises in the Peace Palace at The Hague and proposed that preliminary negotiations should be commenced between the Carnegie Foundation and the United Nations in order to fix the conditions on which the Foundation would be prepared to place at the disposal of the International Court of

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Justice the premises required by it with a view to the conclusion of a temporary agreement.

The Executive Secretary received from the Secretary of the Board of Directors of the Carnegie Foundation a letter, dated the 5 January 1946, in which is stated:

"The Board of Directors agree with the proposal to begin preliminary negotiations in order to fix the conditions on which the premises required by the Court can be placed at its disposal; and as it seems desirable to them that these negotiations take place at the Hague, the seat of the Peace Palace, the Board of Directors will be happy to meet there the agent or the officials designated for that purpose by the United Nations".

## II. EMOLUMENTS OF THE JUDGES OF THE INTERNATIONAL COURT OF JUSTICE

The Preparatory Commission of the United Nations in its report calls the attention of the General Assembly to the necessity of fixing the emoluments of the Judges early in the First Session and to the desirability of ensuring that their real value shall be not less than that of those of the Judges of the Permanent Court of International Justice during the period 1936-1939.

On 25 September 1930 (Fifteenth Plenary Meeting of Eleventh Session) the Assembly adopted a resolution fixing the salaries and allowances of members of the Court as from 1 January 1931 until such time as the resolution adopted by the Assembly on 14 September 1929 in connection with the revision of the Court's Statute, should become applicable.

The revised Statute came into force on 1 February 1936. The amount of the sums to which the Judges of the Permanent Court of International Justice were entitled in the period 1936-1939 was fixed by the following resolution of the Tenth Assembly dated 14 September 19<sup>2</sup>~~9~~9.

"With reference to Article 32 of the Court's Statute, the Council agrees with the suggestions of the Supervisory Commission and proposes that, subject to the entry into force of the amendments proposed in the Court's Statute, the Assembly should fix the salaries of the members of the Court from 1 January 1931, as follows:

|                |   | Dutch Florins |
|----------------|---|---------------|
| President      | Annual salary.....  | 45,000        |
|                | Special Allowance.....  | 15,000        |
| Vice-President | Annual Salary.....  | 45,000        |
|                | Allowance of 100 florins for each day on which he acts as President, up to a maximum of | 10,000        |
| Members:       | Annual salary.....  | 45,000        |

Judges referred

to in Article 31

of the Statute: Allowance of 100 florins for each day of duty, plus a daily subsistence allowance of 50 florins."

To facilitate the work of the General Assembly in ensuring that the real value of the fixed emoluments of the Judges is not less than that of those of the Judges of the Permanent Court of International Justice during the period 1936-1939, the following statement submitted by the United Kingdom Treasury provides a basis for fixing the emoluments of the Judges of the International Court of Justice:-

#### EXCHANGE RATE OF NETHERLANDS GUILDER

|                           | <u>£ Sterling</u><br>£ 1 = | <u>U.S. Dollar</u><br>\$1 = | <u>Swiss Franc</u><br>SFcs 100 = |
|---------------------------|----------------------------|-----------------------------|----------------------------------|
| Yearly 1936               | Fl 7.78                    | Fl 1.57                     | Fl 46.59                         |
| Average 1937              | 8.98                       | 1.82                        | 41.68                            |
| 1938                      | 8.89                       | 1.82                        | 41.59                            |
| 1939                      | 8.32                       | 1.88                        | 42.26                            |
| Average for 1936/9        | 8.49                       | 1.77                        | 43.03                            |
| 1945 June                 | 10.691(a)                  | -                           | -                                |
| July                      | "                          | 2.67 3/8(c)                 | -                                |
| August                    | "                          | -                           | -                                |
| September                 | 10.691(b)                  | -                           | 61.35                            |
| October                   | "                          | 2.65(d)                     | "                                |
| November                  | "                          | 2.64(e)                     | (9 Nov) "                        |
|                           |                            |                             | (16 Nov) 61.50                   |
| Average for June/November |                            |                             |                                  |
| 1945                      | 10.691                     | say 2.65                    | say 61.40                        |
| 1945 December             | 10.691                     | 2.64                        | not available (f)                |

#### Notes:

(a) British Military Rate.

(b) Official rate established by Anglo-Netherlands Monetary Agreement of September 1945.

(c) Provisional rate for a few special purposes (Financial Times, 10.7.45.)

(d) Provisional rate for a few special purposes (Quarterly Review No. 70 of Amsterdamsche Bank).

(e) i.e. Fl 1 = \$.379327 which since the 2 November has been the rate "Certified by the Federal Reserve Bank to the U.S. Treasury under the Tariff Act of 1930".

(f) No information regarding the December quotations has so far been received. The middle rate of Fl 61.62 (Fl = SFos 162-29) established by the Netherlands/Swiss Agreement concluded late in October last refers only to commercial transactions - financial payments were excluded."

III. REGULATIONS FIXING THE CONDITIONS UNDER WHICH RETIREMENT PENSIONS MAY BE GIVEN TO MEMBERS OF THE COURT AND TO THE REGISTRAR, AND THE CONDITIONS UNDER WHICH MEMBERS OF THE COURT AND THE REGISTRAR SHALL HAVE THEIR TRAVELLING EXPENSES REFUNDED (ARTICLE 32, PARAGRAPH 7 OF THE STATUTE).

(a) Pensions:- the Judges and the Registrar of the Permanent Court of International Justice were beneficiaries of a system of pensions which were fixed by the following regulations adopted by the Assembly on 14 September 1929 (Sixth Annual Report, Series E, No. 6, pages 93-95):-

Article 1

"The members and the Registrar of the Court who have, for any reason whatever, ceased to hold office shall be entitled to retiring pensions.

"This right, however, shall not be recognized if the persons concerned have been dismissed for reasons other than the state of their health.

"In the case of resignation, members of the Court will not be entitled to pensions unless they have completed a period of five years' service, and the Registrar shall not be entitled to a pension unless he has completed a period of seven years' service, but the Court shall have power, by a special decision based on the fact that the person concerned is in a precarious state of health and has insufficient means, to grant him a pension equivalent to that to which he would have been entitled had he completed the minimum period of service laid down above.

"The payment of a pension shall not begin until the person entitled to such pension has reached the age of 65. In certain exceptional cases, however, the pension may, by a decision of the Court, be made payable, in whole or in part, to persons entitled thereto before they reach that age.

Article 2

"No retiring pension payable under the present regulations shall exceed 15,000 Dutch florins in the case of members of the

Court and 10,000 Dutch florins in the case of the Registrar.

### Article 3

"Subject to the provisions of Article 2, members shall be entitled to the payment of a pension equivalent to one-thirtieth of their salary in respect of each period of twelve months passed in the service of the Court, the amount being calculated:

for the President, on his annual salary and special allowance;

for the Vice-President                      do.       "       duty       "

for other members, on their annual salaries.

"The Registrar shall be entitled to the payment of a pension equivalent to one-fortieth of his salary in respect of each period of twelve months passed in the service of the Court.

"If a person entitled to a pension is re-elected to that office, the pension shall cease to be payable during his new term of office; at the end of this period, however, the amount of this pension shall be determined as provided for above, on the basis of the total period during which he discharged his duties.

### Article 4

"Subject to the provisions of Article 3, retiring pensions shall be payable monthly in arrears during the lifetime of the beneficiary.

### Article 5

"Retiring pensions shall be regarded as coming under the expenses of the Court within the meaning of Article 33 of the Statute of the Court.

### Article 6

"The Assembly of the League of Nations may, on the proposal of the Council, amend the present regulations.

"Nevertheless any amendment so made shall not apply to persons elected before the amendment in question was adopted, unless they give their consent thereto."

(b) Travelling Expenses:- as regards the payment of travelling expenses, the following regulations were adopted by the Assembly on 14 September 1929 (Sixth Annual Report, Series E, No. 6, pages 95-96):-

#### "Article 1.

"Members of the Permanent Court of International Justice shall be entitled, in respect of themselves and one near relative to repayment of travelling expenses necessarily incurred by them in the course of journeys made on duty and to repayment of the cost of one journey every year from the seat of the Court to their homes and back again.

"For this purpose, each member will hand in to the Registry a written statement of the place to be regarded as his home.

"Judges ad hoc, appointed as provided in Article 31 of the Statute of the Court, shall be entitled to repayment of the travelling expenses necessarily incurred by them in the course of their journeys made on duty. The Registrar of the Court shall be entitled to repayment of travelling expenses necessarily incurred by him in the course of his journeys made on duty, and to repayment of the cost of one journey every year from the seat of the Court to his home and back again.

#### Article 2

"Journeys made on duty shall comprise:

- (1) journeys made necessary by sessions or sittings of the Court held away from the seat of the Court, and by visits to places concerned in proceedings, etc.;
- (2) journeys made necessary by summonses to members of the Court who are away from The Hague on leave or during the vacations of the Court, and to ad hoc judges;
- (3) in the case of the Registrar, journeys undertaken by him on mission on the Court's behalf or as a 'competent official' within the meaning of the Financial Regulations of the League of Nations.

#### Article 3

"Members whose homes are distant more than five days' normal travel from The Hague may be reimbursed, instead of for a journey to their homes and back again, for a journey to any other place they may select, provided the cost does not exceed that of a journey to their homes and back again.

#### Article 4

"Travelling expenses shall be refunded to judges and to the Registrar on presentation of detailed claims for ~~expenses~~, duly signed by them.

These claims for expenses, countersigned by the Registrar (or, where necessary, by the Deputy Registrar), who will endorse them 'Certified in conformity with the regulations in force', shall be transmitted by him to the President for signature and final approval. If the Registrar (Or Deputy-Registrar, as the case may be) does not feel able to endorse a claim for expenses as indicated above, he shall transmit it, together with a report, to the President, with whom the decision shall rest.

#### Article 5

"If a journey cannot be effected without a break, the additional hotel and subsistence expenses shall be refunded to the persons concerned".

Conclusions:

The steps to be taken by Committee 6 are the following: -

- (1) A Recommendation to the General Assembly to authorize the Secretary-General to take the necessary steps to convene the International Court of Justice as soon as possible after the election of the judges.
- (2) A Recommendation concerning the emoluments of the judges.