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BUDGET ESTIMATES FOR THE FINANCIAL YEAR 1962

Salaries of Judges of the International Court of Justice

Twenty-fourth report of the Advisory Committee on Administrative
and Budgetary Questions to the General Assembly at its sixteenth
session

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General (A/C.5/876) bringing certain relevant data to the attention of the General Assembly, for such action as it may deem fit, concerning a possible upward revision of the salaries of the Judges of the International Court of Justice at The Hague.

2. The pertinent facts would appear to be as follows:

(a) There has been no change in the remuneration of the Judges since it was last revised by the General Assembly in 1950,^{1/} nor has the question been reviewed^{2/} since that time;

(b) Between 1950 and 1960 the official Netherlands cost-of-living index has risen by 36 per cent and the weighted average^{3/} of all post adjustments paid at different duty stations throughout the world will have increased by some 25 per cent by 1 January 1962;

1/ The salary of a Judge is in a fixed amount, with no provision for increments or post adjustment payments to compensate for rises in the cost of living.

2/ There is no machinery for the periodic review of the salaries of the Judges as there is in the case of United Nations staff in general, excluding the Secretary-General.

3/ i.e. weighted both for the various percentage classifications of each duty station and the numbers of staff residing at each.

(c) There is evidence that in a wide range of outside occupations "real" incomes have been augmented, i.e. there have been increases in the purchasing power of salaries over and above compensation for rises in the cost of living.

3. On the basis of the above facts, the Secretary-General suggests the following:

(a) It seems evident that the United Nations, no less than the Governments of Member States in the case of their own national judges, must from time to time review the salaries of the Judges of the International Court;

(b) Broadly speaking, it may be said that merely to restore the "real" value (i.e. purchasing power) of the remuneration of the Judges to its 1950 level would require an increase of some 30 per cent;

(c) In addition, the General Assembly might wish to consider the possibility of making some provision to ensure that, between reviews of the base salary itself, the purchasing power of the salaries is maintained at a reasonably constant level, by means of some form of post adjustment payment to compensate for increases in the cost of living.

History of the present scale of remuneration

4. The emoluments of the Judges were originally established by the General Assembly in 1946 on the basis of a report by the Preparatory Commission of the United Nations^{4/} which stated that the emoluments should be such as to guarantee the absolute independence of the Judges and to render the office acceptable to the most eminent of the persons qualified, in accordance with Article 2 of the Statute of the Court.^{5/} In this regard, the Commission emphasized that "the real value^{6/} [of the salaries] shall not be less than that of those of the judges of the Permanent Court of International Justice during the period 1936-1939". During the latter period the remuneration of members of the Permanent Court was 45,000 guilders. Taking into account that the purchasing power of the Netherlands guilder had

^{4/} Report of the Preparatory Commission of the United Nations (PC/20), chapter V, section 3.

^{5/} Article 2 reads: "The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law."

^{6/} i.e. purchasing power.

decreased by approximately 20 per cent since 1939, it was agreed^{7/} accordingly that the annual salaries of the members of the International Court should be fixed at 54,000 Netherlands guilders (corresponding in 1946 to \$20,350), which represented a 20 per cent increase over the nominal salaries of the Judges of the Permanent Court. In addition to this fixed base salary, the following allowances were payable:

- (a) Special annual allowances to the President 15,000 guilders (\$5,550)
- (b) Allowance of 100 guilders (\$37) to the Vice-President for every day on which he acts as President up to a maximum of 10,000 " (\$3,700)

5. As a result of the devaluation of many currencies in September 1949, the General Assembly in 1950 reviewed the emoluments of the Judges and decided henceforth to express the emoluments concerned in terms of US dollars. Resolution 474 (V) of 15 December 1950 established the following scale:

President:

	\$
Annual salary	20,000
Special allowance	4,800

Vice-President:

Annual salary	20,000
Allowance equivalent to \$30 for every day on which he acts as President up to a maximum of	3,000

Other members:

Annual salary	20,000
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Ad hoc Judges appointed in accordance with Article 31 of the Statute of the Court:

Allowance of \$35 for each day on which they exercise their functions, plus a daily subsistence allowance as provided for in the Travel and Subsistence Regulations of the International Court of Justice.

It will be noted that this scale represents, generally speaking, the actual dollar equivalent in 1950 of the guilder amounts established in 1946.

6. There has been no change in this scale of remuneration since.

Relationship with the salaries of the Registry of the Court

7. One of the elements mentioned in the report of the Secretary-General (A/C.5/876, para. 3) in support of a review of the emoluments of the Judges is the relative deterioration in the position of the Judges vis-à-vis the Registry of the Court. Although the Advisory Committee agrees with the Secretary-General that there is no direct connexion between salaries of United Nations staff and the salaries of the Judges, the General Assembly might wish to note that when it fixed a Judge's salary at \$20,000 in 1950 the relationship thus established was such that the salary of a Judge was 64 per cent higher than that of the Registrar. To restore this relationship in respect of 1961 salaries, it would be necessary to increase the Judges' salaries by slightly more than 31 per cent, to \$26,240 but, if the proposals for the Secretariat salaries in 1962 are accepted by the General Assembly, at its current session, the increase required to restore the relationship as in 1950 would be 43 1/2 per cent, which would give an annual salary of \$28,700.

Implications of the increase in the cost of living in the Netherlands since 1950 and of the revaluation of the Netherlands guilder in 1961

8. It is stated in paragraph 7 of the Secretary-General's report that the cost-of-living index in the Netherlands has risen by 36 per cent between 1950 and 1960,^{8/} an amount which corresponds closely to the 35 per cent increase in

^{8/} The United Nations Monthly Bulletin of Statistics shows the rise in the cost of living in the Netherlands since 1950 as follows:

1950 -	89
1951 -	99
1952 -	100
1953 -	100
1954 -	104
1955 -	106
1956 -	108
1957 -	115
1958 -	117
1959 -	119
1960 -	121

New York during the same period. This rise of 36 per cent in the cost-of-living index does not of course wholly reflect the impact of cost-of-living changes on the Judges, who do not live in The Hague throughout the year. Nevertheless, changes in United Nations cost-of-living indices at many duty stations indicate that since 1950 there may be said to have been increases of the order of

30-35 per cent.^{9/} It would therefore appear that the present level of Judges' salaries no longer meets the standards propounded by the Preparatory Commission, and accepted by the General Assembly in 1946, (see para. 4 above).

9. Moreover, the revaluation by 5 per cent of the Netherlands guilder early in 1961^{10/} has had the effect of reducing still further the purchasing power of the dollar salaries in respect of that portion of income converted into Netherlands currency.

Methods of possible adjustment

10. Should the General Assembly decide that some increase in the Judges' salaries is called for to take into account the decline in real purchasing power, some attention might be given to the fundamental assumptions on which such an adjustment could be based. In calculating the appropriate level of the emoluments as established in 1950, a purely theoretical hypothesis was adopted according to which 50 per cent of a Judge's salary was deemed to be spent at The Hague and 50 per cent at the 1950 base station of New York.^{11/} Thus, it was considered that the appropriate level of a Judge's salary would be the equivalent of average total net remuneration paid at that time to Assistant Secretaries-General, i.e. \$23,500. However, since it was assumed that Judges would spend one half of their salary in The Hague where the cost-of-living index was then 30 per cent below the New York base level, an amount of \$20,000 net was regarded as more appropriate. The latter amount was deemed to consist of:

^{9/} This refers to increases at a number of specific duty stations. The increase in the weighted average of all post adjustments at the different duty stations is expected to be 25 per cent by 1 January 1962.

^{10/} The exchange rate of the guilder was altered from \$US1 = 3.80 G to \$US1 = 3.60 G.

^{11/} Under the terms of the Statute of the International Court, Judges are not obliged to reside the whole year at The Hague and in practice do not do so. They therefore have expenses both at The Hague and at their principal places of residence.

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(a) A "base" (i.e. New York) element	\$ 11,750
(b) A "Hague" element of \$11,750 minus 30 per cent	<u>8,250</u>
	<u>20,000^{12/}</u>

11. In the light of circumstances as they actually obtain, it might be considered that that part of the latter assumption, according to which one half of the salary is taken to be spent in New York, has no real basis in fact. Thus, Members of the Court reside in a variety of countries away from the Netherlands during periods when they are not participating in the Court's proceedings. If this reasoning is accepted, the 50-50 basis might be maintained for practical purposes, but it would be more in keeping with the facts to apply to the "non-Hague" portion the weighted average of all post adjustment increases since 1950, which is expected to be of the order of 25 per cent by 1 January 1962.

12. There is a third possibility, which recognizes that a breakdown between time spent at The Hague and elsewhere can at best only be very approximate, since the determining factor is the number and length of the cases in which a Judge is involved in any particular year. It might therefore be considered a more appropriate method simply to provide an over-all increase in total base salary to compensate for the general rise in the cost of living since 1950. On this basis, the existing salary of a Judge might be increased by 25 per cent, being the weighted average rise in all post adjustments since 1950.

13. Should the General Assembly desire to adopt one of the above approaches, the effect in monetary terms of the above three possibilities may be stated as follows:

^{12/} The salary was established on a net basis, and consequently not subject to staff assessment. As a matter of interest, however, it may be said that the gross equivalent under the existing United Nations staff assessment scheme of the net figure of \$20,000 would have been some \$33,000.

(a) Following exactly the 1950 assumption

(i)	The "base" (i.e. New York) element of \$11,750 would, to retain its real value, be increased by 35 per cent to	\$ 15,860
(ii)	The "Hague" element of \$8,250 (yielding 31,350 guilders in 1950) would, to retain its real value, be increased by 36 per cent to 42,636 guilders which at 3.60 guilders to the dollar, ^{a/} equals	11,840 27,700 ^{b/}

(b) Following the 1950 assumption modified to take account of the fact that the "base element" is in fact spent in various countries

(i)	The base element of \$11,750 would be increased by 25 per cent, being the likely rise by 1 January 1962 in the weighted average of all post adjustments since 1950	\$ 14,688
(ii)	As in (a) (ii) above	11,840 26,528 ^{b/}

(c) On the assumption that the general rise in the cost of living should be compensated for

	The total base salary of \$20,000 would be increased by 25 per cent (likely weighted average rise by 1 January 1962 in all post adjustments since 1950)	\$ 25,000 ^{b/}
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a/ The use of this rate of exchange would compensate for the effects of the revaluation of the Netherlands guilder in early 1961.

b/ See foot-note 12 above. Gross equivalents under (a), (b) and (c) would have been \$46,600, \$44,250 and \$41,200 respectively.

14. The Advisory Committee notes that the Secretary-General has not made any concrete proposals and has left it to the General Assembly to decide what action might be reasonable in the circumstances. For the guidance of the Assembly in arriving at its decision, the Advisory Committee has examined the data submitted

and in some cases has elicited additional information; its factual findings have been given above. Should the Assembly conclude that an increase in the salaries of the Judges is called for, the Advisory Committee, for the reasons stated in paragraph 12 above, would be inclined to favour the method at (c) in paragraph 13, with a pro rata increase in the special allowances payable to the President, Vice-Presidents and ad hoc Judges (excluding subsistence allowances).

15. In paragraph 9 of the Secretary-General's report, it is suggested that the General Assembly might wish to consider the possibility, in the case of the remuneration of the Judges, of making some provision akin to the post adjustment system as applicable to the regular international staff. The Advisory Committee would recall that the Judges' emoluments are sui generis and were established by the General Assembly outside the context of the common system of salaries and allowances. In particular, no form of post adjustment has been payable to the Judges in the past and the Committee would therefore refrain from any comment at this time.
