

PRESERVATION OF PENSION AND OTHER RIGHTS

Report of the Working Party on Staff Retirement and
Insurance Funds

Transmitted to the General Assembly by the Secretary-General

I.

At the 31st Plenary meeting of the General Assembly, held on
13 February 1946, it was decided that

"In order to facilitate the engagement, as members of the staff of the United Nations, of persons who have accrued pension rights as officials, either of the central government of Members, or of subordinate governmental or other administrative authorities within the territory of Members, it is desirable that arrangements should be made to secure that accrued pension rights are not lost when such persons accept posts on the staff of the United Nations, by way either of transfer or of secondment.

"Therefore, the General Assembly recommends that:

After such discussion with the Secretary-General as may be necessary to settle details the governments of Members adopt such legislative or administrative measures as may be required to preserve such pension rights."

Subsequently, in his letter dated 31 May 1946, on behalf of the Secretary-General, the Assistant Secretary-General for Administrative and Financial Services, in convening the Working Party, asked us to prepare recommendations upon the preservation of pension rights for officials of Member Governments transferred or seconded for service with United Nations. We were asked to consider this problem in conjunction with the Legal Department.

The problem arises because the various pension funds are self-contained units and as an employee moves from one employer to another the rights he has accrued under one scheme are not automatically carried over to the next. As a result the employee may find himself without benefits under his new employer's scheme, particularly where there is a long waiting period for certain benefits, or on retirement he may be eligible for only a small

pension; and he may suffer other inconveniences and losses.

The same disadvantages may also affect an employee who is seconded by a Member Government for a period of service with the United Nations unless some provision is made by the two authorities concerned.

Considerations of this kind are not likely to impede the recruitment or secondment of comparatively junior staff but an older person, with considerable accrued rights under the pension arrangements of a Member Government, may well hesitate to enter the employment of the United Nations if by doing so he sacrifices all the pension and benefit rights he has built up over the previous years. He may be willing to accept such a sacrifice if the salary and other conditions of his United Nations employment are far superior to those of his present employer, but not otherwise. Hence the importance to the United Nations recruitment policy of removing the worst disadvantages of such a situation.

The Working Party have given consideration to the general problem under three main heads:

1. Preservation of employer pension and other benefit rights of persons transferred from the employment of a Member Government to the United Nations (or vice versa);
2. Preservation of employer pension or other benefit rights of persons transferred from the employment of a public authority within the jurisdiction of a Member Government to the United Nations (or vice versa);
3. Preservation of rights under a national social insurance plan of a person who becomes an international civil servant.

II.

EMPLOYER'S PENSION ARRANGEMENTS

Transfer of Employees Between Member Governments and United Nations

In the case of transfer of staff between Member Governments and the United Nations, it is possible to argue that some continuity of rights should be granted.

The obstacles to any simple or clear-cut arrangement are:

1. The schemes of the various Member nations differ very widely in generosity and in scope;
2. The schemes vary considerably in form of financing;
3. Some of the Member nations may have no pension provision for their civil servants.

With these general difficulties in mind, we have considered four main alternative arrangements which might be the subject of reciprocal agreement between United Nations and Member States.

A. Freezing of rights.

Here the Member Governments would agree to preserve the pension and other benefit rights of one of their employees as they stood at the time of his being transferred to the United Nations. The United Nations on their part would also make provision for similar preservation of rights in their scheme to their employees going into the service of a Member Government. In the case of the retirement pension this would normally mean that upon his retirement from the United Nations the Member Government would pay to the person who had been in their employ a pension based on his service with them, in other words, a deferred annuity.

There is already a provision in the United States Federal Retirement Act for the payment of a deferred retirement pension to anybody who leaves the

Federal service after five years' employment. Under the British Civil Service pension scheme the Treasury may, if it approves the service with the new employer, agree to pay the civil servant leaving the service of the British Government a deferred pension at the age of sixty.

In the case of some of the Member Governments' pension schemes, it may be possible to achieve the same result by granting an employee who transfers to United Nations indefinite leave of absence without pay. Such a person would normally cease to contribute or acquire any further right under the Member Government's pension scheme, but could take up those rights again upon his return to the service of the Member Government or upon retirement from the United Nations staff.

The difficulties or objections in the way of an arrangement whereby an employee's accrued rights are frozen are:

- (a) The freezing of rights in any previous scheme does not of itself meet the eligibility problem, e.g. where a pension scheme provides that no pension is payable unless the employee serves for at least ten years. There are no serious eligibility or minimum period of contribution provisions in the proposed United Nations Pension Regulations, but a person does not become entitled to any withdrawal benefits (other than the return of his own contributions) under five years' contributory service, and should he fail to pass a medical test prescribed by the Staff Benefit Committee, he may not be eligible for death or disability benefit until after five years' service with United Nations. The freezing arrangement would therefore have to go along with some form of waiver which would credit the employee for past service for the purpose of any qualifying period in the new scheme;*

The same point arises in respect of the Staff Regulations governing sick leave and leave generally. For example, under the present United Nations Staff Regulations any employee, even if he has had many years' service with a Member Government, has to start to build up his sick leave rights at the rate of $1\frac{1}{2}$ days for each month of service with United Nations.

(b) Particularly where a person only stays a short time either with the Member Government or with the United Nations, the value of his deferred annuity might be quite small and costly to administer;

(c) Should the employee have service in several organizations he will receive his pension from several sources;

(d) Where a person's pension rights are frozen at a comparatively early age, either the Member Government or the United Nations would have the administrative inconvenience of keeping track of such a person and also possibly of his widow and dependants. This might be particularly difficult administratively for the United Nations.

(e) There is possibly a major question of principle here. Is it compatible with the basic idea underlying an international civil service, that an individual having left a national service and become internationalized, should be dependent for some part of his pension upon a Member nation? One could imagine circumstances in which an international civil servant might be victimized by a Member nation or at least feel under some continuing obligation to it, if he is to make certain that his deferred pension will ultimately be paid.

B. Use of Contributions Payable in Respect of New Employment to Continue Employee's Rights Under the Previous Scheme.

In view of the fact that the United Nations' scheme is likely to be more generous than the existing schemes of many Member Governments, this arrangement would be likely to penalize the entrant from such nations and would lead to differences in treatment between the different employees of United Nations. Furthermore, it could not be expected that so far as invalidity or death benefit were concerned, that the United Nations should rely on the provisions in another scheme. The arrangement might, however, be possible where the scheme of the Member nation consisted of individual life policies, for in this case the contributions under the United Nations' scheme might in the first instance be used to maintain the premiums on such individual life policies. There would, however, still remain the problem of deciding what to do with any

balance between the contributions in the present employment and the monies necessary to maintain his previous rights.

C. Transfer of Rights with Corresponding Transfer of Cash.

There are two possibilities here:

1. The transfer of the cash value of the accrued rights in the scheme to purchase rights in the new scheme equal to the value of the cash transferred.

2. The employee's rights could be based on the benefits under the new scheme and the cash value transferred from his former schemes might be treated merely as a contribution insofar as the new scheme provided a higher level of benefit.

Alternative (1) would raise some very difficult problems of translating the man's rights in the old scheme into terms of his rights in the new. The problem might be increased by reason of the exchange of the country's currency into dollars where the employer country was not the United States. Owing to the wide differences in the provisions of different schemes, employees with the same length of service in United Nations, but coming from different Member Governments, would, on retirement, find themselves with different levels of pension.

For these reasons alternative (2) would probably be preferable.

As regards (2), it is open to doubt whether a transfer of money is really worth while. In the great majority of cases, transfer to United Nations would provide the person with better benefits than under his own scheme and where the standard of living and the rate of exchange in a country are low compared with the United States of America, the amount of cash value brought into the United Nations' Pension Fund would make only a small

contribution. Alternatively, where an employee left United Nations for the service of a Member Government which had a low level of pension provision, or a poorer standard of living than that found in the Headquarters' area of the United Nations, such a person would take with him a capital sum quite inconsistent with the benefits under the Member nation's scheme.

Furthermore, in so far as the staff affected by any reciprocal arrangement is likely in the long run to bear a rough proportion to the contributions to the general upkeep of United Nations made by the Member nations, there are grounds for thinking that the complicated financial calculations necessary for any transfer of cash values is an unnecessary administrative inconvenience. In most cases the sums of money involved would be quite small in relation to the total budget of the United Nations or of any Member country.

So far as the United Nations' Pension Fund is concerned, any benefits given new employees of Member nations higher than those consistent with their contributions under the normal arrangement of the Fund, will have to be made good by a deficit payment. This deficit payment will presumably be met out of the general contributions by the various Member Governments. In the long run, therefore, certainly so far as the major nations are concerned, it may be a matter of indifference whether the cash values are transferred or whether they contribute merely as contributors, making good any deficit on the United Nations' Fund.

D. Carry-over of Years of Service

Here there would be a reciprocal agreement between United Nations and Member Governments to the effect that previous service with each other would, for the purpose of the various pension funds and other benefit arrangements, be treated as current service with the United Nations or a Member Government. For example, a British civil servant of ten years' standing who transferred to the service of the United Nations would, for the purpose of the United Nations' pension and benefit arrangements, bring those ten years with him. If he stayed ten years with United Nations and then returned to the British Government, he would re-enter their scheme credited with twenty years of service.

Under this arrangement, an employee's rights at any time would be determined:

1. by the provisions governing the pension fund of the body by which he was employed at the time he came to retire or qualified for some other form of benefit;
2. by his cumulative years of service in all the agencies or governments covered by the reciprocal agreement.

Such an arrangement would be similar to alternative (2) in scheme C, without the complication of a transfer of any cash value.

There would be certain difficulties requiring attention, even if this simple arrangement were adopted:

- (1) Where an employee of the United Nations was transferred to or entered the civil service of a Member Government, which had a pension scheme less generous than the United Nations' scheme or where it had no pension provision at all, then it would have to be recognized that the employee would lose, unless he were given a choice between transfer of years of contributory service and the lump sum payment provided for in Section 8 of the draft Pension Fund Regulations.

- (ii) The definition of what constitutes years of service with a Member Government would need careful consideration. Should it, for example, cover military service or service with a subordinate authority of a Member Government?
- (iii) As it is likely that there would be more people transferring from the Member Government to the United Nations' service than the reverse transfer, this form of reciprocal agreement would place some extra financial burden on the United Nations budget. If it were to be applied immediately, for example, in respect of staff already transferred and who will enter the Pension Fund immediately on its inception, then the United Nations would be responsible for paying into the Pension Fund a sum actuarially calculated, necessary to put the Fund in a position to pay pensions etc. in respect of back service of the employees covered by the reciprocal agreement. The amount of this deficit charge would vary according to the age of the employee at entry in United Nations' service and the number of back years service with which he would be credited. A man aged forty who was to be credited with ten years' service with a Member Government would, on the benefits proposed, cost the United Nations a deficit payment to the Fund of something around \$12,000, varying according to his present and likely final average salary.

Conclusions

In subject so complicated, covering such a diversity of circumstances and of national schemes, it is not to be expected that any simple or clear-cut solution can be found. Our own inclination is to favour alternative D. (Carry over of years of service) and that is our recommendation. If, however, agreement cannot be obtained along those lines, then, notwithstanding its defects and difficulties, we would recommend consideration being given to alternative A. (Freezing of rights) along with an arrangement whereby years of service with the previous employer are counted for purpose of any eligibility period prescribed under Pension, Sick Leave or other Regulations of the new employer.

2. Employees of Public Authorities within the jurisdiction of a Member Government

The difficulties in the way of a simple straight-forward scheme or agreement between the Member Governments and the United Nations are intensified in the case of employees of public authorities subordinate to or within the jurisdiction of the Member Government.

(a) The range of public authorities is very wide, covering such bodies as State Governments with independent powers within a federal system, local authorities, statutory undertakings and a great variety of quasi-independent public corporations and mixed undertakings;

(b) The number of such authorities is very large and the possibility of direct agreement with them is correspondingly more difficult;

(c) Whilst in some cases the Member Government may have complete control over such subordinate public authorities, in other cases the constitution or the tradition does not allow of much interference.

From some points of view, therefore, it would be preferable to concentrate first on the employees of the Member Governments. The national civil services of the various countries may be expected to provide the bulk of the transferred public employees and only a limited number is likely to come from subordinate public authorities.

Furthermore, the experience gained in arranging the agreement in respect of the Member Governments' civil services will be of great assistance, should it be decided at a later date to attempt to cover subordinate public authorities.

On the other hand, it must be clearly recognized that special arrangements in respect of former employees of Member Governments

are likely to create many anomalies within the United Nations' service. There will be cases of employees who start their service with the United Nations at or about the same time, but who, because of their previous employment, will obtain different benefits under the United Nations Pension Regulations. If therefore the United Nations decide to embark on an arrangement which pays regard to an employee's previous pension rights then, in the interests of avoiding such anomalies, such an arrangement should be made to cover as wide a range of people as possible.

As far as the general principles on which such an agreement should be based are concerned, these are the same as we suggested should apply to the employees of Member nations. It is appreciated, however, that the difficulties of obtaining reciprocal arrangements covering transfer of period of service are going to be very great in respect of such a large number of subordinate public authorities. It will, of course, be quite within the competence of the United Nations to make provision in their Pension Regulations to count service with an approved subordinate authority as though it were service with the United Nations, but it is likely to prove difficult to get such public authorities to accept responsibility for applying such a rule in the reverse case of a United Nations' official returning to the service of a subordinate public authority. It is possible, therefore, that the most that can be done here is for the United Nations to arrange with individual subordinate public authorities in respect of particular officials that the public authority concerned should freeze the employee's pension rights in the way suggested in scheme A.

3. National Schemes of Social Insurance

If we rule out any possibility of an employee of United Nations becoming eligible for benefits under both a United Nations and a national scheme of social insurance in respect of the same risk, then the main problem here is to preserve a United Nations employee's rights in his national scheme of social insurance should he leave the United Nations before retiring age and return to his own country.

Perhaps the simplest arrangement would be for the Member countries to agree to modify their schemes of social insurance so that where a person is eligible to be covered by the national scheme, e.g. where he ceases to be an international civil servant and returns to his own country before retiring age, then for the purpose of any qualifying period or years of service etc., his years of employment with United Nations should be calculated as though he had spent them as a member of the national scheme of social insurance.

III.

PROCEDURE

Resolutions by the General Assembly.

It is felt that the easiest way of proceeding would be not to fix wholly on one particular scheme, but to leave the Secretary-General discretion to negotiate with individual Member Governments for a reciprocal agreement based on one or other of the ways we suggest for preserving pension and other rights. The resolution already passed by the General Assembly would cover those cases which required action by a Member Government, e.g. the freezing of acquired pension rights, but would not meet the case if arrangement D

were adopted for this would require special action by the United Nations.

It may, however, be thought desirable to incorporate in a new resolution something descriptive of the principles on which the Member Governments and the Secretary-General should proceed in dealing with this question of preserving pension rights. In this case some decision would be required as to which principle or principles should be accepted and then authority given to the Secretary-General to enter into arrangements with Member Governments for reciprocal agreements along these lines.

United Nations Pension Fund Regulations

As at present drafted, there is no provision in the draft* United Nations Pension Regulations which would allow of any reciprocal arrangement for preserving pension rights involving an obligation on the United Nations. In view of the variety of arrangements it is possible that the best method of adjusting the Pension Regulations would be by attaching the substance of each Agreement in a series of Annexes. Alternatively, it may be possible to draft a general article in the Pension Regulations whereby employees covered by such an agreement would be accorded special rights.

Other United Nations Staff Regulations

Consideration would need to be given, in the light of the agreement reached, to adjustments in the Sections of the Staff Regulations dealing with sick leave, holiday leave and other benefits requiring a certain period of eligibility before full rights are acquired.

Norman CHESTER (U. K.) Chairman
E. SCHOENBAUM (Czechoslovakia)
N.E. SHEPPARD (Canada)

Raymond B. ROBBINS
Consulting Actuary
N.B. DAVIES, Secretary

20 August 1946.

* It was decided subsequently to insert Section 11 in the draft Pension Regulations, authorizing the Secretary-General, subject to the approval of the General Assembly, to conclude agreements with Member Nations so as to secure continuity of pension and staff benefit rights.