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PROPOSED PROGRAMME BUDGET FOR THE BIENNIUM 1984-1985

Conditions of service and compensation for officials other than Secretariat officials

Twenty-fourth report of the Advisory Committee on Administrative and Budgetary Questions

1. In response to the request of the Fifth Committee at its 67th meeting on 15 December 1983, the Advisory Committee on Administrative and Budgetary Questions has considered proposals on post-retirement benefits for members of the International Court of Justice as put forward and discussed in paragraphs 86 to 106 and in annex II of the report of the Secretary-General on conditions of service and compensation for officials other than Secretariat officials (A/C.5/38/27).
2. Background information on post-retirement benefits for judges is given in paragraphs 66 to 69 of the Secretary-General's report. As indicated in paragraph 66, pursuant to article 32, paragraph 7, of the Statute of the International Court of Justice, the judges have a separate non-contributory pension scheme.
3. The Secretary-General indicates, in paragraph 86 of his report, that he has received suggestions from the Court to amend certain provisions of their present Pension Scheme Regulations. Paragraph 86 also contains a description of these suggestions.
4. For reasons given in paragraphs 87 and 88 of his report, the Secretary-General states, in paragraph 89, that certain benefit provisions of the Pension Scheme Regulations of the Court should be amended. His proposals in this regard are contained in paragraphs 90-105 of his report and cover:

- (a) Retirement age;
- (b) Minimum period of service;
- (c) Disability pension;
- (d) Child's benefit;
- (e) Pensions in payment and adjustment procedure.

5. The proposed amendments to the present Pension Scheme Regulations of the Court are contained in annex II of the report. The financial implications of the Secretary-General's proposals in this regard are estimated at \$63,500 for 1984-1985, as shown in paragraph 110 (d), (e) and (f) of the request. In paragraph 111, the Secretary-General states, however, that "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".

6. Taking into account paragraphs 90 and 91 of the report, the Committee has no objection to changing from 65 to 60 the normal minimum age at which pension may be payable to members of the Court.

7. In paragraph 94 of his report, the Secretary-General recommends reducing the minimum period of service requirement from five to three years. The Secretary-General states that "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". Taking into account the average age of the members of the Court on appointment in the past and the fact that this is unlikely to change in future, the Committee does not object to this proposal.

8. With regard to disability pension, it is noted in paragraph 95 of the report that 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. This is compared with provisions of the United Nations Joint Staff Pension Fund, according to which 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 (see A/C.5/38/27, para. 96).

9. In the light of the above, the Secretary-General recommends 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". The Advisory Committee concurs with this recommendation. In this connection, the

Committee notes the statement, in paragraph 98 of the report, that amending the provision for disability pension "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 minimum pensions".

10. In his discussion of child's benefit, the Secretary-General indicates in paragraph 100 of his report that, unlike the situation under the Regulations of the United Nations Joint Staff Pension Fund, 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 Fund, 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 Committee has no objection to the Secretary-General's suggestion that a similar provision should be introduced in the Pension Scheme Regulations of the Court.

11. In paragraph 102, it is suggested that the Pension Scheme Regulations of the Court be amended to provide that the maximum child's benefit be expressed as a proportion of base salary rather than a specific dollar amount. This would avoid the need for the Assembly to consider separately the matter of a ceiling for the child's benefit on the occasion of its comprehensive reviews of the salaries of the judges. The Secretary-General suggests that the ceiling amount could be set at 1/36 of the annual base salary of the judges. The Advisory Committee recommends acceptance of this suggestion.

12. The Advisory Committee has no objection to the recommendation of the Secretary-General, in paragraph 104 of his report, 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 base salary and, hence, the pension entitlements of members of the court. According to the Secretary-General, this would reflect the practice followed since 1972.

Conclusion

13. The Advisory Committee recommends approval of the proposals of the Secretary-General with regard to post-retirement benefits of the members of the International Court of Justice and recommends adoption of the amendments to the Pension Scheme Regulations of the Court as proposed in annex II to the Secretary-General's report (A/C.5/38/27).
