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UNITED NATIONS JOINT STAFF PENSION FUND

REPORT OF THE UNITED NATIONS JOINT STAFF PENSION BOARD ON
THE THIRD ACTUARIAL VALUATION OF THE UNITED NATIONS JOINT
STAFF PENSION FUND AS OF 30 SEPTEMBER 1954 1/

AMENDMENTS TO THE REGULATIONS OF THE UNITED NATIONS JOINT
STAFF PENSION FUND: REPORT OF THE UNITED NATIONS JOINT
STAFF PENSION BOARD 2/

ACCEPTANCE BY THE SPECIALIZED AGENCIES OF THE JURISDICTION OF THE
UNITED NATIONS ADMINISTRATIVE TRIBUNAL IN MATTERS INVOLVING
APPLICATIONS ALLEGING NON-OBSERVANCE OF THE REGULATIONS OF THE
UNITED NATIONS JOINT STAFF PENSION FUND 3/

Third report of the Advisory Committee on Administrative and Budgetary
Questions to the tenth session of the General Assembly

Third actuarial valuation of the Fund

1. Article XXXI of the Regulations of the United Nations Joint Staff Pension Fund provides that the Joint Staff Pension Board shall have an actuarial valuation of the Pension Fund made, under stated conditions, at least once every three years; that, upon receipt of the actuarial report, the Pension Board shall make proposals to the General Assembly of the United Nations, and to member

1/ See Official Records of the General Assembly, Tenth Session, Supplement No. 8A, document A/2916.

2/ Ibid., Supplement No. 8, document A/2914.

3/ Document A/2970.

organizations, for any action to be taken as a result thereof; and that copies of the actuarial report and of any such proposals shall be forwarded to the Advisory Committee on Administrative and Budgetary Questions.

2. The Advisory Committee has accordingly considered the report^{4/} of the Joint Staff Pension Board on the third actuarial valuation of the Pension Fund as of 30 September 1954.
3. The report of the consulting actuary (A/2916, paragraph 24) states that "taken as a whole, the gains from favourable experience have more than offset the losses from adverse experience,". In consequence, the margin between the rate of contribution of 21 per cent laid down in the Regulations and the rate necessary to meet benefit payments and administrative expenses is estimated, as of 31 December 1954, at 0.97 per cent.
4. The Joint Staff Pension Board has made, on the basis of the actuarial report, only one proposal to the General Assembly (A/2914, annex II) for revision of the existing Regulations; namely, to amend article I.4, regarding the definition of final average remuneration, in the following manner:

Proposed text

Article I.4

"Final average remuneration" means the average annual pensionable remuneration during the five successive years of the participant's contributory service affording the highest such average, or during the total years of such service if they are less than five.

Existing text

Article I.4

"Final average remuneration" means the average annual pensionable remuneration of the participant during the last ten years of his contributory service. Where the participant has less than ten years of contributory service, the final average remuneration shall mean the average annual pensionable remuneration during the actual period of contributory service.

5. For comparison, the corresponding text of the regulation in force under the provisional pension scheme (27 January 1947 to 22 January 1949) follows:

^{4/} See Official Records of the General Assembly, Tenth Session, Supplement No. 8A, document A/2916

Section 1

.....
.....
"Final average remuneration" means the average pensionable remuneration of the participant during the last sixty months of contributory service before the termination of employment, provided that where the participant has less than sixty months of contributory service the final average remuneration shall mean the average pensionable remuneration during the actual period of contributory service."

6. The cost of the proposed amendment is estimated by the consulting actuary at 0.68 per cent of pensionable remuneration, and the Board contends (A/2916, paragraph 6) that such an increase in cost is "entirely consistent with prudent management of the finances of the Fund", the amendment, if adopted, would still leave a margin of 0.29 per cent as compared with the net margin (after deduction of the administrative expenses of the Board) of 0.27 per cent which was estimated as of 31 December 1951. The Board also contends (A/2914, annex II) that the use of a five-year period is desirable as a means of relating pensions "more realistically to the level of salary received at the culmination of a career service", and it points out that the General Assembly in 1948 authorized the substitution of the ten-year average solely for reasons of economy (see paragraph 9 below).

Previous history of the question

7. The Advisory Group of Experts on Administrative, Personnel and Budgetary Questions^{5/} submitted to the Fifth Committee, during January 1946, the outline of a staff retirement scheme to be developed by the Secretary-General (A/C.5/20^{6/}). As part of that scheme, the Advisory Group recommended that the retirement benefit should be one-sixtieth of the average salary over the five years preceding retirement for each year of service.

^{5/} The advisory Group was appointed in November 1945 by the Executive Secretary, in accordance with a recommendation of the Executive Committee to the Preparatory Commission.

^{6/} See Official Records of the General Assembly, First Session, (First Part), Fifth Committee, annex 3, page 64.

8. The Working Party of Consultants subsequently appointed by the Secretary-General reported in August 1946 (A/90^{7/}) concurring on this point in the recommendation of the Advisory Group, and by resolution 82 (I) of 15 December 1946 the General Assembly included among the definitions for the provisional Regulations the text which is reproduced in paragraph 5 above.

9. It was generally agreed, when the provisional scheme was discussed in the Fifth Committee during December 1946,^{8/} that, while the proposed benefits were not excessive, the contribution rate of 21 per cent was high both in relation to those benefits and as an absolute figure, and that it represented the maximum amount which the General Assembly would willingly authorize for the purposes of the scheme. It thus followed that, when an actuarial valuation disclosed during 1947, that the estimated cost of the benefits provided under the scheme amounted to 24.51 per cent, the General Assembly decided (by resolution 248 (III) of 7 December 1948) that, among other measures designed to reduce the cost to 21 per cent, the five-year period in the definition of "final average remuneration" should be extended to ten years.

Conclusions

10. In weighing the proposed amendment the Advisory Committee has had regard to three factors:

7/ Ibid., First Session (Second Part), Sixth Committee, pages 339-340.

The Working Party proposed the last five years of service on the following grounds:

(a) Inasmuch as retirement on account of reaching retiring age normally involves an adjustment in a person's standard of living, it is customary to associate the amount of pension with the salary received in the last years of service; the use of a five-year average is more consistent with the concept that the retirement pension should be related to the standard of living to which the participant was used at the time of retirement;

(b) If too short an average period is taken (e.g. one year), two dangers may arise: (i) that promotion may be given during the last year before retirement merely in order to increase the participant's pension; and (ii) that the chance of promotion for older participants may be reduced because of a need to avoid a costly charge on the Fund.

8/ Ibid., Fifth Committee, 33rd, 34th and 42nd meetings.

- (a) The intrinsic justification, if any, for a five-year average, without reference to the actuarial position of the Fund;
- (b) The length of time during which the actuarial experience has continued favourable; and
- (c) The contingent liability which the member organizations have assumed under article XIX of the Regulations.

11. As regards point (a), the Committee understands that in a number of comparable schemes the final average remuneration is determined on the basis of five years or less, these being, in certain cases, the last years of service, and, in other cases, consecutive years affording the highest average. While this is not a determining factor - in the sense that certain of those schemes are more restrictive in other respects (for example, entitlement to lump-sum withdrawal benefits) and in the sense also that a true comparison of schemes should be related to the totality of their provisions - the Committee recognizes that the action of the General Assembly in approving a five-year average in the original scheme, together with the expert recommendations on which that action was based, afford a large measure of justification for the proposed revision, though not necessarily for its immediate adoption.

12. In so far as points (b) and (c) are concerned, it is to be remembered that Member States are required under article XIX of the Regulations to make good any deficiency if an actuarial valuation shows that the assets of the Pension Fund may not be sufficient to meet the liabilities. Although the Committee debated whether it might not be wiser, before amending article I.4, to have the benefit of a longer actuarial experience, it is prepared to concur in the adoption, with effect from 1 January 1956, of the Board's proposal, subject, however, to the modification recommended in the following paragraph.

13. Subsidiarily, as regards the text of the amendment submitted by the Board (A/2914, annex II), the Committee considers that the restoration of the five-year average, if approved by the General Assembly, should in any case be based on the text^{9/} approved for the original (provisional) scheme (see paragraph 5 above), providing for the use of the average over the last five years of service.

^{9/} Subject, however, to definition by reference to years instead of months.

In proposing an alternative text (see paragraph 4 above), the Board observes that the use of the five successive years yielding the highest average remuneration "will avoid hardships which otherwise might exceptionally arise through reduction of pensionable remuneration towards the end of a career" (A/2914, annex II). The Committee believes, however, that an admittedly remote contingency scarcely warrants a special provision in the Regulations. It doubts moreover whether, if such a contingency arose, the average remuneration of the last five years of service would in fact show a reduction sufficient to cause hardship.

Amendments to the Regulations of the Fund

14. The Advisory Committee has also considered the amendments to the Regulations of the United Nations Joint Staff Pension Fund which, in accordance with article XXXVII of those Regulations, the Joint Staff Pension Board has recommended to the General Assembly (A/2914, annex II, pages 18 to 24).

15. The amendments under reference fall into three broad categories:

(a) Amendments arising out of previous decisions of the General Assembly: amendments to articles II and XI, and the addition of a new article XLI;

(b) Amendment arising out of the third actuarial valuation of the Pension Fund: amendment to article I.4;

(c) The remaining amendments, which, as the Board points out (A/2914, annex II, page 18), are of a minor character and are recommended either in the interest of clarification or improved administration or for the purpose of removing unintentional inequities.

Article I.4

16. The Advisory Committee has commented in paragraphs 4 to 13 above on the proposed amendment to this article.

Article II.2

17. As regards the proposed amendment to article II.2, which concerns the possible entry into the Pension Fund of the present Registrar of the International Court of Justice, the Advisory Committee has necessarily had regard to the action taken in this matter by the General Assembly at its ninth session in 1954 (A/2886,

paragraphs 254 to 258^{10/}). At that time the Committee refrained, for reasons stated in its report to the Assembly (A/2336^{11/}), from making an affirmative recommendation, and it now wishes to draw attention to the explanatory comment accompanying the revised text of the article, in which the Board "expresses its concern at the decision to introduce into the Regulations an exception in respect of an individual official". Subject thereto, as well as to confirmation by the General Assembly of its provisional decision of 1954 that the present Registrar of the Court, though over sixty years of age at the time of his appointment, should be admitted under certain conditions into the Pension Fund, the Advisory Committee concurs in the text of the revision recommended by the Board.

Article XI

18. The existing article XI has been in force, as one of the permanent Regulations, since January 1949. During 1952, the Board proposed the deletion of the article on the following grounds:^{12/}

"The Board [has been] informed that similar provisions do not exist in many national or private pension schemes, Recognizing also that disciplinary measures are within the sole competence of the executive heads of the member organizations, it considers that the administration of the Fund should not become involved in such decisions. It feels, moreover, that as a general rule participants and their families should receive protection corresponding to payments made to the Fund on their behalf."

19. The General Assembly having decided, in December 1952, (resolution 680 (VII)) that the proposed revision should be referred back for further consideration, the Board decided at its fourth session (1953) to recommend the retention of article XI in the modified form shown in the appended table (column C). The Assembly, however, decided in paragraph 3 of resolution 772 (VIII) of 27 November 1953 that article XI should be retained for the time being and it requested the Board to re-examine its provisions and report to the current tenth session.

10/ See Official Records of the General Assembly, Ninth Session, Annexes, agenda item 38.

11/ Ibid.

12/ See Official Records of the General Assembly, Seventh Session, Annexes, agenda item 45, page 13.

A

Existing text
(in force since
January 1949)

A participant who, in conformity with the Staff Regulations, has been summarily dismissed for serious misconduct shall receive:

(a) His own contributions to the Pension Fund, with compound interest at 2-1/2 per cent per annum, plus

(b) Such amount as may have been transferred on his account to the Pension Fund from the Provident Fund at the time of his entry into the Pension Fund, without interest, provided that, on the recommendation of the Secretary-General of the United Nations, or of the competent authority of the member organization concerned, the Joint Staff Pension Board may, to the extent so recommended, grant to such participant a lump sum equal to either the whole or a part of the remainder of the benefit he would have been entitled to, under article X, had he ceased to be employed for reasons other than summary dismissal for serious misconduct.

B

1955
Revised text proposed
by the Board

1. Except as provided in paragraph 2 of this article, a participant who, in conformity with the Staff Regulations, has been summarily dismissed for serious misconduct, shall be entitled to the benefits provided in article X.

2. Upon the recommendation of the competent authority of the member organization concerned, the Joint Staff Pension Board shall reduce the benefits to the extent so recommended, provided that the amount which shall be paid to the participant shall not be less than:

(a) His own contributions to the Pension Fund, with compound interest at 2-1/2 per cent per annum, plus

(b) Such amount as may have been transferred to the Pension Fund from the Provident Fund of a member organization at the time of his entry into the Pension Fund, without interest, plus

(c) If he has validated a period of prior non-pensionable service under article III such amount, not exceeding 5 per cent of his pensionable remuneration for that period, as he may have received from the Provident Fund of a member organization in excess of his own contributions thereto, and have refunded to that member organization.

C

1953
Revised text proposed
by the Board

1. Except as provided in paragraph 2 of this article, a participant who, in conformity with the Staff Regulations, has been summarily dismissed for serious misconduct, shall be entitled to the benefits provided in article X.

2. Upon the express recommendation of the competent authority of the member organization concerned, based upon the gravity of the offence which gave rise to the summary dismissal, the Joint Staff Pension Board may reduce the benefit, provided that the amount which shall be paid to the participant shall not be less than:

(a) His own contributions to the Pension Fund, with compound interest at 2-1/2 per cent per annum, plus

(b) Such amount as may have been transferred on his account to the Pension Fund from the Provident Fund at the time of his entry into the Pension Fund, without interest.

20. The Advisory Committee recognizes that the revision accordingly proposed by the Board (see column B) meets certain objections that were seen in the 1953 text, in that a recommendation from an employing organization for a reduction of benefit (with which would be coupled a specific indication of the extent of the reduction) would be mandatory upon the Board, and not - as the 1953 text provided - permissive. The possibility is thus removed of the Board's being associated, even indirectly, with the grounds of dismissal or of its being required to weigh the gravity of an offence leading to summary dismissal.

21. There remains nevertheless for decision a question of principle essentially similar to that considered by the General Assembly at two previous sessions: whether there are adequate grounds for reversing the existing provision.^{12/}

22. In its report, the Board states that, although it has carefully studied the information provided by many Governments on the provisions in their pension schemes for national civil servants in relation to their pension rights in the event of dismissal from the civil service, it is not in a position to draw firm conclusions on which recommendations to the General Assembly may be based.

23. The Advisory Committee considers the existing regulation to be preferable to the proposed revision; its provisions are well fitted to meet whatever cases of hardship involving a participant or his dependents may arise. It provides that action by the executive head shall be optional: as the sole authority having a full knowledge of all aspects of the case, he is authorized, but not required, to make a recommendation to the Board; he is thus enabled, where there are extenuating circumstances, to temper the severity of the penalty or, in the absence of such circumstances, to refrain from positive action. It seems therefore to the Committee that the existing regulation adequately provides for cases of hardship and that, in view of the gravity of offences resulting in summary dismissal, an amendment to the text is not desirable.

^{12/} In one respect the position would not be totally reversed: the Board may, under the existing provision, decline to follow the recommendation of an employing organization.

Jurisdiction of the United Nations Administrative Tribunal

Article XLI

24. The Advisory Committee has considered the proposed new article XLI concerning the jurisdiction of the United Nations Administrative Tribunal jointly with the report submitted by the Secretary-General in document A/2970. The Committee notes that all the specialized agencies participating in the Fund have signified their acceptance in principle of the jurisdiction of the Tribunal in relation to the Regulations of the Fund, and that a special agreement has already been signed with ILO. Other similar agreements with FAO, UNESCO, ICAO and WHO are pending.

25. The Committee concurs in the proposed text, subject to the insertion at the end of sub-paragraph (a) of paragraph 1 of the words "upon his death", 13/ and subject also to the following reservations:

(a) It is understood by the Committee, on the testimony of representatives of the Secretary-General, that the judgments of the Tribunal in Pension Fund

13/ This amendment is recommended for the sake of consistency with the model agreement annexed to document A/2970.

cases could, in accordance with article 9 of the Statute of the Tribunal, 14/ either order the rescinding of the decision contested or the specific performance of the obligation invoked, but that the Tribunal could not award damages in such cases; and

(b) It is also understood that, in the event that the General Assembly amends the Statute of the Tribunal on the basis of the report of the Special Committee on Review of Administrative Tribunal Judgments (A/2909), the provisions of the proposed new Pension Fund article would require review.

Other amendments

26. As regards the remaining recommendations of the Board, the Advisory Committee finds in the explanatory comment furnished in the report (A/2914, annex II) sufficient justification for the proposed changes, which are of a minor character. Accordingly, it recommends the adoption of the amendments to the following articles: IV.3, VII.2 (a), VII.5, IX.2, X.1 (a), X.1 (b), X.1 (d), X.2.

14/ Paragraph 1 of the article reads as follows:

"If the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked. At the same time the Tribunal shall fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgment, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his case; provided that such compensation shall not exceed the equivalent of two years' net base salary of the applicant. The Tribunal may, however, in exceptional cases, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order."

See also, article I, paragraph 1, of the special agreement (A/2970, annex):
"The United Nations Administrative Tribunal shall be competent to hear and pass judgment, in accordance with the applicable provisions of its Statute and its Rules, upon applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund"