Rule 105.3

"(d) The country of home leave shall be the country of the staff member's nationality, subject to the following terms, conditions and exceptions:

(i) The place of home leave of the staff member within his home country shall be, for purposes of travel and transportation entitlements, the place with which the staff member had the closest residential ties during the period of his most recent residence in his home country preceding appointment;

(ii) A staff member who has served with another public international organisation immediately preceding his appointment shall have the place of his home leave determined as though his entire previous service with the other international organisation had been with the United Nations;

(iii) The Secretary-General, in exceptional and compelling circumstances, may authorise as the home country, for the purposes of this rule, a country other than the country of nationality. A staff member requesting such authorisation will be required to satisfy the Secretary-General that he maintained his normal residence in such other country for a prolonged period preceding his appointment, that he continues to have close family or personal ties in that country and that his taking home leave there would not be inconsistent with the purposes and intent of Staff Regulation 5.3."

The Executive Secretary had submitted the case of home leave examined by the Budget Working Party, to various agencies and has received the views of these agencies on the matter. The replies are reproduced below:

Spec/153/56/Add.1.
"I have consulted with the Office of Personnel here, which is responsible for the administration of home leave entitlements, and have received a reply along the following lines."

"In the view of the United Nations, home leave is a corollary to the principle of geographical distribution, which must be administered with prudence and considerable rigour if its purposes are to be demonstrably achieved. United Nations does not enter into the question of whether laws on citizenship are convenient and economical to an international organisation.

"In the case in question, the staff member in question has one legal and active nationality. In United Nations he would be counted as a national of that country, and be granted entitlement to home leave to that country; unless it were apparent from the history of the case that he has truly accepted another country as his home country, in which case home leave would be granted to that other country. The test would however be severe - it would be based on where he had spent his life, normally most of it, but perhaps, under persuasive conditions, only his adult life.

"GATT has accepted the second country as his home country. United Nations would not accept any request for recognition of two countries as a staff member's 'home country'. For United Nations purposes, members of the British Commonwealth of Nations are individual states, just as members of other groupings are individual states. Home leave entitlement can be to one home country only.

"We would not entertain the possibility of a staff member with an operative nationality going to his 'home country' in X one time, and to his 'home country' in Y at another time."

Food and Agriculture Organization of the United Nations, Rome.

"If such a case were to arise, a determination of the staff member's permanent residence for all administrative purposes would have been the same as your own. I do not see how, under our rules, we could allow a staff member the choice of home leave in either of two countries."

"If your Governing Body should be inclined to grant the request, we feel that it should not be by amendment of the Regulations and Rules which by now are more or less common for all the agencies, and which may cause some embarrassment, but by an exception granted in an individual case, taking account of any exceptional circumstances."
International Labour Office, Geneva.

"Perhaps I can best answer your question by quoting Article 76(a) of the ILO Staff Regulations:

"An official's home shall be determined at the time of his appointment by the Director-General after consulting the Administrative Committee. Unless there are compelling reasons to make an exception, an official's home shall be deemed to be in the country of which he is a national at the time of his appointment. An official's home shall remain unchanged for the duration of his service unless the Director-General, after consulting the Administrative Committee, decides that there are compelling reasons for permitting a change."

"You will note that it is the Director-General who designates the home country in each case. Where an official has dual nationality the official's desire would of course be taken into account, the designation of the home country would be made by the Director-General, and only one of the two countries would be so designated. Normally, the Director-General would name the country of origin in a case of this kind, and he would agree to a change for 'compelling reasons' which appeared likely to be valid indefinitely.

"As we have quite a number of officials who have dual nationality, a precedent which would leave the option with the official, particularly on a continuing basis, could indeed prove awkward. Apart from this, however, it is difficult to think of any reason in terms of equity why an official, merely by reason of peculiarities of national legislation, should have this peculiar advantage over his colleagues. It would seem to us, therefore, that your original conclusion was correct and just."


"Without the names of the countries I am unable to say whether we have had any similar cases."

"The detailed provisions for Home Leave are laid down in our Staff Rules, the relevant Regulation being drafted in very general terms, so that we could deal with this kind of situation without having to amend the Regulations. For several years I have been pressing at CCAO meetings for detailed provisions to be kept out of Staff Regulations."

"We would not be embarrassed in any way whatever decision were taken in this particular case.

"If we had such a case, I think, from what I can gather of the circumstances, we would adopt the following attitude:

"(a) we would recognize one nationality and official home only;
(b) we would pay Home Leave travel to the official home, but we would allow leave taken in the other country to count for Home Leave purposes.

"In saying this I am assuming that the situation you describe might arise in the case of, say, India and Pakistan, or perhaps some of the Middle-East countries."

World Health Organization, Geneva.

"We have studied the interesting case described in your note of 15 August and conclude, as you did, that in WHO we would not be able to grant the staff member's request. Depending on exactly the dates of residence, etc., we should determine his place of residence as being either in country X or country Y, and entitlements would be determined accordingly.

"Should your Governing Body decide to deal with this specific case on some exceptional basis, this would represent no embarrassment to us so long as it was understood that no new principle was being established for dealing with the establishment of a staff member's normal place of residence."