

Affiliation of the staff  
to the United Nations Joint Staff Pension Fund

Note by the Executive Secretary

1. At the request of the Budget Working Party of the Eighth Session the Executive Secretary circulated a note on the operation of the ICITO Staff Benefit Fund (W.8/4).
2. At the Ninth Session, the Working Party was informed that the United Nations Joint Staff Pension Board had submitted to the General Assembly of the United Nations an amendment to the regulations of the Joint Staff Pension Fund which would enable the staff members of ICITO to join the United Nations Joint Staff Pension Fund.<sup>1</sup> It was also informed that the possible transfer of the functions of the GATT secretariat to a new organization might involve certain legal and practical difficulties in connexion with the membership of the United Nations Joint Staff Pension Fund. The Executive Secretary was therefore instructed to discuss these questions with the competent authorities in the United Nations with a view to solving these problems.
3. In the course of the discussions conducted with the secretariat of the Pension Board it appeared that, if the ICITO were dissolved before the OTC became a specialized agency of the United Nations, the strict affiliation of the Staff Pension Board Regulations would not permit of the continued membership of the ICITO staff members in the United Nations Fund. In view of the risks involved in such an eventuality, the Executive Secretary decided to consult the CONTRACTING PARTIES before pursuing its discussions with the Pension Board.

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<sup>1</sup> As indicated in L/422, paragraph 23, this amendment was approved by the General Assembly on 4 December 1954.

4. The difficulty results from the fact that, if ICITO is disbanded before the OTC is brought into relationship with the United Nations as a specialized agency in accordance with Article 57 of the UN Charter, the participation of the staff members in the Fund appears to have no legal basis under Article XXVIII of the Fund Regulations, or under supplementary Article A approved by the General Assembly in 1954. The Pension Board seems to have no other alternative but to consider that the ICITO staff members cease to be in the employment of a member organization under Article X of the Regulations and therefore cease to participate in the Fund in accordance with Article II paragraph 3 of those Regulations. In other words, the Pension Board would have to grant to these officials or to the ICITO acting as their agent, the withdrawal of benefits as defined in Article X of the Regulations.

5. Another possibility would be that, in those circumstances, the ICITO apply for termination of membership of the Fund in accordance with Article XXXVIII of the Regulations. In that case, the ICITO would receive a proportionate share in the total assets of the Pension Fund as defined in paragraph 2 of that Article.

6. It is clear that the ICITO would elect this second procedure if it appeared that this arrangement would be more favourable than the first method.

7. Under either method, there is no guarantee that the amount received from the Fund would correspond to the mathematical reserve required to meet benefits similar to those contemplated in the Pension Fund. In the second case, it is difficult to make any estimate since the share would be determined by actuarial valuation at the time the membership terminates. If the first method is adopted, it would seem, on the basis of calculations made by the Secretariat, that the deficiency in the mathematical result would amount to more than \$45,000.

8. Under those circumstances, the object pursued by the CONTRACTING PARTIES when they decided in 1953 to enable the staff to join the United Nations Fund would be defeated, and, unless some guarantee is found to safeguard the legitimate rights of the staff, it would be difficult to pursue negotiations with the Pension Board.

9. Under the assumption that the governments wish to enable the staff to count as pensionable service the years spent in the GATT Secretariat, it would be necessary for the CONTRACTING PARTIES to reconstitute the mathematical reserve, and to bring it to a level which would be required from an actuarial point of view to finance the benefits. This would correspond approximately to 21 per cent of the pensionable salaries of the staff members transferred to the OTC. These salaries would be calculated as from the date on which they have entered the service of the ICITO.

10. If the CONTRACTING PARTIES decide to earmark, for that purpose, the available balances of the Staff Pension Fund (ISBF) when the staff joins the Pension Fund, the contingent liability referred to above would be reduced by about \$ 25,000/30,000.

11. If the CONTRACTING PARTIES wish the Executive Secretary to pursue his discussions with the Pension Fund and the Secretary-General of the United Nations with a view to an early affiliation of the staff to the United Nations Pension Fund, the following course might be considered:

The Fund Regulations might be modified in such a way as to enable the OT6 to remain member of the Fund until it becomes a specialized agency. This would require action at the present General Assembly which would probably instruct the Pension Board to submit a proposal at the next General Assembly. A suggestion along these lines was considered in the course of discussions with the United Nations, but it was felt that it would give rise to serious difficulties.

Another solution would be to insert in the Agreement to be concluded between the ICITO and the Secretary-General of the United Nations in accordance with Article XXVIII of the Fund Regulations a provision which would deviate from the provisions of Article XXVIII and would ensure that no substantial loss would be sustained by the contracting parties in case of termination of membership. The following draft which has been discussed with the Secretariat of the Board would appear to meet that requirement :

" 1. That, in the event of termination within a certain fixed period of years, the total amount distributable under Article XXXVIII will be equal to the sum of contribution made by ICITO and its participants plus interest thereon, less benefit payments made, including the present value of future payments entered upon.

2. That, in the event that at any time during such fixed period, the sum of the benefit payments made plus the value of future benefits entered upon is greater than the sum of the accumulated contributions, ICITO will make up the difference or, if this is not possible, the future benefits of retired ICITO participants be reduced accordingly."

12. It is certain that the Pension Board would prefer to avoid making an arrangement of this kind. However, if the CONTRACTING PARTIES instruct the Executive Secretary to make the acceptance of such a provision a condition for the conclusion of the Agreement, and if that view is strongly supported by the delegations at the General Assembly, it would be advisable, if the CONTRACTING PARTIES agree, to put the question formally to the Secretary General of the United Nations and the Pension Board.

13. If either of these solutions are not possible, the CONTRACTING PARTIES would have to decide whether they would be prepared to guarantee at this Session that the ICITO, after having joined the Fund in the course of next year and been obliged to terminate its membership when the OTC is set up, would have the necessary funds available to bring the mathematical reserve to its required level. The most convenient method for achieving that end would be to earmark any available balances of the ISBF at the time of transfer, and to give authority to the Executive Secretary to draw on the Cash Reserve if necessary at the time of termination.

14. If this guarantee is available, the Executive Secretary would be in a position to conclude an agreement with the Secretary-General of the United Nations and to obtain early affiliation of the Staff to the UN Joint Staff Pension Fund. The task of the Executive Secretary would be greatly facilitated, and the risk of any contingent liability for the Governments substantially reduced, if the delegates of the contracting parties to the United Nations General Assembly would give support to the first or second solution outlined above. If the CONTRACTING PARTIES are not prepared to give that guarantee, which would operate

only if the first and second solutions outlined above are not feasible and if there is a deficiency in the mathematical reserve at the time of the setting up of the OTC, it appears difficult to conclude an agreement for the affiliation to the Fund, in view of the uncertainties such action would involve for the Staff, or the risks which the CONTRACTING PARTIES might have to face in the future.

15. On the other hand, if the CONTRACTING PARTIES, in view of these difficulties, were to postpone the admission of the Staff of the ICITO into the UN Pension Fund, such a decision would have the following consequences: as the ISBF does not cover any death or disability risks, the CONTRACTING PARTIES would be fully responsible for the payment of the benefits provided in the Staff Regulations in case of death or disability attributable to conditions of employment. As there is no specific provision in the Budget to cover these risks, any benefit would have to be paid out of the Provision for Unforeseen, or, if that is not sufficient, of the Cash Reserve.

16. If the death or disability does not involve the employer's liability, there would be no legal obligation on the CONTRACTING PARTIES, but, in view of the fact that the staff has contributed from the beginning the amounts necessary under the UN Staff Pension Fund Regulations to cover these risks, as well as the withdrawal and retirement benefits, it would probably be difficult for the governments to refuse to make compensatory payments. These payments would also have to be covered by drawings on the Provision for Unforeseen or from the Cash Reserve.

17. Finally, if this uncertainty about the future of the OTC continues for some time, the staff members who may resign or be terminated in the interval might be adversely affected if their withdrawal benefits are less than those to which they might be entitled under the UN Staff Regulations.

18. When the ISBF was set up, it was contemplated that the ITO would come into existence within a year or so, and the arrangements were of a very provisional character. Seven years have elapsed, and no improvement has been made in this respect. The staff has paid benefits corresponding to those required in all the other international organizations of the United Nations family to be guaranteed against death and to receive withdrawal and retirement benefits which are in most cases more advantageous than the lump-sum payments provided for in the ISBF. It would appear that any postponement of the solution of the problem would be undesirable. As early as 1953, the Executive Secretary drew the attention of the CONTRACTING PARTIES to the desirability of providing for the staff the benefits which corresponded to the contributions paid by the Governments and the staff itself. He recommended that, if no means were found to obtain an early affiliation of the staff to the UN Pension Fund, he would be authorized to make other arrangements to achieve that object. The question has been in suspense since 1953, and it appears more desirable than two years ago to arrive at a final solution of that problem.