

FEDERATION
des ASSOCIATIONS d'ANCIENS FONCTIONNAIRES INTERNATIONAUX
(F.A.A.F.I.)

FEDERATION
of ASSOCIATIONS of FORMER INTERNATIONAL CIVIL SERVANTS
(F.A.F.I.C.S.)

Compte 285 161 00M/60 R
Union de Banques Suisses
Genève

Palais des Nations
CH - 1211 Genève 10

New York,
13 July 1989.

To: All Member Associations

Seventeenth Session of the Council

You will find attached the Record of Decisions of the Seventeenth Session of the Council of FAFICS. For those Member Associations who were not able to be present at the Council Session the despatch will also contain certain papers which were distributed only at New York.

If a Member Association wishes to make any amendments in, or comments on, this Record of Decisions, please make them as soon as possible. Following past practice, if no amendments have been received by 31 October 1989, the Record of Decisions will be considered to be finally adopted.

Angela Butler,
Secretary of the Federation.

P.S. Appendix III to the Record of Decisions will be sent out under separate cover

RECORD OF DECISIONS OF THE SEVENTEENTH SESSION OF
THE COUNCIL OF THE FEDERATION OF ASSOCIATIONS OF
FORMER INTERNATIONAL CIVIL SERVANTS (FAFICS)

(New York, 6/7 and 10 July 1989)

1. The Seventeenth Session of the Council of FAFICS was held on Thursday, Friday and Monday, 6/7 and 10 July 1989 in the United Nations building.

PARTICIPATION

2. The following Member Associations of FAFICS were represented:

AAFI/AFICS, Geneva

Mr. Aamir Ali

Mr. S. Grabe

AFICS, New York

Mr. A. Landau

Ms. M. Lee

Mr. R.L. Smith

Mrs. P. Tsien

BAFUNCS, London

Mr. D. Miller

CAFICS, Montreal

Ms. R. Douesnard

CAF/UNESCO, Paris

Mr. A. Chakour

Mr. W. Zyss

3. Mrs. M. Bruce (Chairman of the Council of FAFICS) and Miss A. Butler (Secretary of FAFICS) were present in their official capacity.

ELECTION OF THE CHAIRMAN OF THE SESSION

(Agenda item 1)

4. Mrs. M. Bruce (Chairman of the Council) was elected and took the chair.

ADOPTION OF THE AGENDA

(Agenda item 2)

5. The draft agenda was adopted without change (cf. Appendix I).

REPORT OF THE CHAIRMAN

(Agenda item 3)

6. The Chairman welcomed the participants at this session of the Council. She was particularly pleased to welcome the representative from CAFICS, Montreal since this was the first occasion on which that Association had been represented at the Council.

7. Her report would be brief since the year under review had been relatively calm. This did not mean that FAFICS had been inactive, but many of the developments she could refer to would be discussed in greater detail under other items on the agenda. There was the question of after-service health insurance (ASHI) and the comparative tables on which CAF/UNESCO had continued to work during the year and which would be considered under item 6. Closely allied were the questions of aging and of long-term care of the elderly, which were demanding more and more attention.

8. There were questions directly related to pensions and to the forthcoming session of the Pension Board. Some of these had been referred to by the Secretary of the Pension Fund in his annual letter to pensioners, and there was also a paper that had been prepared for the Council by AAFI/AFICS, Geneva (D.5). An important item was the representation of FAFICS at the Board under the new rules which, she understood, would be strictly applied, and in the Standing Committee. Another item was the effect of marriage and its dissolution on benefits from the Fund, on which a paper had been prepared by Mr. Zyss (CAF/UNESCO)(cf. D.6). For all of these it could be useful to invite the Secretary of the Pension Fund to a sitting of the Council in order to have clarification on certain points and obtain his views on others.

9. It was agreed that the Chairman should invite the Secretary of the Pension Fund, Mr. Gieri, to meet with the Council, preferably on the morning of 7 June.

10. Some considerable time had been taken up in New York by participation in NGO meetings by herself and by various members of AFICS/New York, particularly in meetings of the Conference of Non-Governmental Organisations (CONGO), to which reference would be made again under items 4(2) and 8.

REPORTS OF THE APPOINTED REPRESENTATIVES

Meetings of the UNJSPB and related bodies (Agenda item 4(1))

11. The Council took note of the report on the 168th meeting of the Standing Committee, which had been distributed to all Member Associations on 7 September 1988.

12. A representative of AFICS/New York reported on the ICSC Working Groups on the Comprehensive Review of Salary Systems. The report of the Working Groups was not yet available. It might be useful to ask the Secretary of the Pension Fund, who had participated in most of the meetings, for clarification of some points. This was agreed.

Other Meetings (Agenda item 4(2))

13. This item would be dealt with under item 8.

PENSION QUESTIONS (Agenda item 5)

Effect of marriage and its dissolution on benefits from the Fund (Document D.6)

14. Document D.6 was introduced by its author, Mr. W. Zyss (CAF/UNESCO). He had essentially dealt with three aspects of the problem: financial obligations of pensioners to their spouses; provision of survivors' benefits to divorced spouses; establishment of a new benefit on remarriage after separation from the employing organization.

15. The Council warmly thanked CAF/UNESCO, especially Mr. Zyss, for all the work put into the paper, which provided an excellent analysis of the problems involved and basis for discussion. After considerable discussion it was agreed that the paper should be submitted as a FAFICS paper to the UNJSPB, subject to a few amendments. The latter concerned chiefly the deletion of paragraphs 29 and 30 and the introduction of the ideas contained therein in a more general statement earlier in the paper that would not close the door irrevocably to their consideration at some later date. Attention was drawn to the fact that under its regulations the Fund was at present unable to provide any remedy for cases in which a pensioner refuses to provide financial support to his or her spouse, or former spouse, which often leads to serious hardship. It was agreed that this problem required further study. The revised text without its annexes is appended (cf. Appendix II).

Agenda of 38th Session of UNJSPB
(Document D.5)

16. On the basis of the observations in D.5 and of discussions in the meeting, the Council took note, in particular, of JSPB items 9 (Investments of the Fund), 11 (Actuarial Matters), 12 (Measures to improve the Actuarial Balance of the Fund), 15 (Pensionable remuneration - Arrangements for the comprehensive review to be carried out in 1990), 16 (Pensionable remuneration and consequent pensions of staff in the General Service and other locally-recruited categories), 21 (Size and composition of the Standing Committee). It was agreed to seek clarification from the Secretary of the Fund on a number of points, including the status of the ICSC Working Groups on the 1990 comprehensive review, action to be taken on the CAF/UNESCO paper, FAFICS representation in the Board and in the Standing Committee, the Emergency Fund.

17. The Secretary of the Fund met with the participants in the Council on Friday, 7 July 1989. A wide-ranging and highly informative discussion took place. The issues covered included the following: (a) state of progress of the ICSC Working Groups in the 1990 comprehensive review; (b) the Secretary's reactions to the substance of and proposals in the CAF/UNESCO paper on the "effect of marriage and its dissolution on benefits from the Fund"; (c) clarification regarding the figure 0.91% regarding deferred pensions, quoted in para. 45(c) in document JSPB R.18; (d) information as to whether the interim measure providing a floor dollar rate of exchange (scheduled to terminate on 31 December 1989) would be continued beyond 1990; (e) representation of FAFICS in the UNJSPB, possibility of introducing some flexibility, such as rotation of representation; (f) establishment of a minimum period of five years before a participant may qualify for a disability or death benefit (actuarial savings of 0.10 per cent of pensionable remuneration); (g) more liberal use of the Emergency Fund. (For details see Appendix III). The Chairman expressed the thanks of the participants for the time the Secretary and his staff had been able to devote to the discussions as well as for the frankness of the exchange of views.

18. Concern was expressed about some of the possible changes in benefits mentioned in the Secretary's paper on Economy Measures (JSPB 38/R.18) and also
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in the Report of the Committee of Actuaries (JSPB 38/R.16), particularly the introduction of a qualifying five-year period for disability and death benefits. It was recognized, however, that many of the items to be discussed were of more direct concern to serving members of the staff than to pensioners, and that such items would probably not require any intervention on the part of FAFICS.

AFTER SERVICE HEALTH INSURANCE

(Agenda item 6; document submitted by CAF/UNESCO)

19. The paper was introduced by Mr. A. Chakour (CAF/UNESCO) who explained that it was essentially an updated text version, prepared by Miss McKittrick, of the data submitted in tabular form to the Sixteenth Session of the Council in 1988. A number of the participants provided new data or clarified certain details regarding the various after-service health insurance schemes available to pensioners, and their relationship to national health insurance schemes. The Council thanked CAF/UNESCO for the interesting data it had assembled. It agreed that the Council should keep this item as a standing item of its agenda, as is the case with pensions. It also agreed that the item should cover not only benefits and contributions but also such matters as relations with national and, as applicable, major private health insurance schemes, management of self-administered schemes and monitoring of commercial schemes, as well as conditions governing participation, in particular, in after-service health insurance (ASHI) arrangements. The Council finally agreed that direct (seminar-type) exchanges were the best means of obtaining and analysing data in this field and that a meeting should be arranged early in 1990, at the invitation of one of the Member Associations. It took note of the offer made by AAFI/AFICS, Geneva, to pursue this matter.

OTHER SOCIAL QUESTIONS

(Agenda item 7)

20. The Secretary informed the Council that she had received from BAFUNCS/London, an update on the Zimbabwe project that had been reported on at the last session of the Council (cf. Conference Room Paper No. 1). She had also received from AFICS/Mexico a copy of that Association's Boletín (No. 12) outlining some of its activities during the past year. She had not had time to do a translation of any of the items but had noted that, in addition to luncheons and other purely social activities, the Association had participated in an international book fair, had set up an Emergency Fund from which monies could be advanced to needy members, principally to meet onerous medical expenses. A representative of AAFI/AFICS, Geneva, informed about activities connected with the 70th Anniversary of the ILO, during which a number of social and other activities had been outlined as avenues for meaningful participation of retired staff in community projects and for the furtherance of UN objectives (cf. C.R.P. No. 2).

21. AFICS/New York informed about the establishment of a sub-committee on aging which was providing direct assistance to senior citizens in need of

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practical help (e.g. locating and listing retirement homes and nursing homes, helping the elderly to cope with official or financial papers, advising on legal rights), and was planning to hold a seminar on such questions in New York in the autumn of 1989. All members present expressed interest in receiving in due course information on the results of the AFICS/New York seminar. It was agreed that a separate item on aging should be placed on the agenda of the next session of the Council.

22. In a general discussion on these and related questions it became apparent that all the Member Associations present had initiated, or were initiating, various forms of social and welfare activities. These included, for instance, the appointment by BAFUNCS (sometimes on a regional basis) of members who were prepared to act as counsellors to give direct assistance to former officials in getting accommodation in retirement centres or nursing homes, and to assist them in meeting certain living expenses; the establishment by several associations (e.g. CAF/UNESCO) of solidarity or welfare funds to help needy members financially; a scheme (CAFICS, Montreal, and CAF/UNESCO) offering to assist in arranging exchange visits between cities or countries. It was agreed that such activities were gaining in importance because of the increasingly aging population of the membership and that all Member Associations would benefit from a fuller exchange of information on them.

FAFICS ACTIVITIES AS AN NGO (Agenda item 8)

23. The Chairman pointed out that she had already touched on this item in her opening report to the Council, in particular FAFICS' participation in meetings of CONGO, and the preparation of the Federation's quadriennial report to ECOSOC on the activities of the Federation warranting its acceptance in Category II of the non-governmental organisations in consultative status with ECOSOC. This report had required a considerable amount of work. While she recognised that, in general, CONGO paid too much attention to procedural aspects, she nevertheless felt it was useful for FAFICS to take part in its deliberations and she recommended continuation of its membership in the CONGO. This was agreed.

24. Referring to CRP 2, she felt that a number of the activities outlined in it could be usefully pursued by Member Associations. She was convinced that FAFICS had a role to play in encouraging such activities as well as a special responsibility for supporting the goals and objectives of the UN system. However, it was generally agreed that, as pointed out by a representative of AAFI/AFICS, Geneva, the main thrust would have to come from the Member Associations and their individual members.

REPRESENTATION OF FAFICS AT THE FORTHCOMING SESSION OF THE UNJSPB AND THE ICSC
(Agenda item 9)
38th Session of the UNJSPB

25. It was agreed that the following persons would represent FAFICS at the 38th Session of the UNJSPB:

Representatives: Mr. Aamir Ali
Mrs. P. Tsien

Alternates: Mrs. M. K. Bruce
Mr. W. Zyss

International Civil Service Commission

26. It was agreed that the following persons would represent FAFICS at the forthcoming meeting of the Commission: Mrs. P. Tsien and Mr. R.L. Smith.

27. It was further agreed in the event of an ICSC meeting being held in Europe, the Chairman was authorised to appoint representative(s), as required, on behalf of FAFICS.

INFORMATION ACTIVITIES
(Agenda item 10)

28. It was agreed that one of the most important tasks for the Federation was to keep its Member Associations informed on matters of interest to their members. This was a difficult task and one which was only partially being fulfilled. A number of proposals were made for improving the situation, in particular in connection with speeding up the process of getting information out to Associations located far away from the headquarters centres of New York and Geneva. One particular difficulty raised was the slowness with which reports and other papers were received from the UNJSPB and from the ICSC.

29. It was also agreed that it was now urgent that the FAFICS Information pamphlet be brought out so that retiring staff members would have early and reliable information on Member Associations that might be located at or near their place of retirement. It was noted that publication of the pamphlet would be particularly useful now that it had been agreed with the UNJSPB Secretariat that the latter would assure its distribution to pensioners. It was further agreed that the pamphlet should be brought out as soon as possible.

PROGRAMME OF ACTIVITIES
(Agenda item 11)

30. It was agreed that this item need not be further discussed since decisions had already been taken on individual items.

FINANCIAL QUESTIONS

(Agenda item 12, documents D.2, D.3 and D.4)

31. The Council approved the accounts for 1988, took note of the Auditors' Report, and approved the budget for 1989.
32. The Council authorised the Treasurer to transfer funds from the account to a Swiss franc account as appropriate, in order to benefit from interest payable on the latter.
33. The Council decided to maintain the present rate of contributions for 1990: US\$0.50 per member per annum.
34. The Council authorised the Chairman to renew the agreement with AAFI/AFICS, Geneva, concerning secretariat services.

ELECTION OF OFFICERS

(Agenda item 13)

35. The Council unanimously elected the following officers:

Chairman: Mr. Aamir Ali

Vice-chairmen: Mr. Buonaccorsi (FFOA, Rome)
Mr. A. Chakour (CAF/UNESCO, Paris)
Mr. S. Grabe (AAFI/AFIVS, Geneva)
Mrs. P. Tsien (AFICS, New York)

Secretary: Miss A. Butler (AAFI/AFICS, Geneva)

Treasurer: Miss E. Vanbraecken (AAFI/AFICS, Geneva)

36. It was agreed that the new Chairman would take office on 1 August 1989, after the conclusion of the 38th Session of the UNJSPB.

37. The participants in the Council expressed their warm appreciation not only of the work accomplished by the outgoing Chairman, but also of the manner in which it had been performed throughout the four years of her tenure of office. It had been proved conclusively that the Atlantic ocean was no longer the great gulf it had reputedly become between the dollar and the non-dollar areas, but that FAFICS could unite its membership in common purpose to the benefit of all its members. In reply she stressed that nothing could have been achieved without the will to co-operate and she thanked all the Member Associations and the FAFICS secretariat in Geneva for their loyal support, which had transcended passing differences of views.

DATE AND PLACE OF THE 18TH SESSION OF THE COUNCIL

(Agenda item 14)

38. It was agreed that the next regular session of the Council would be held in 1990 prior to the 39th Session of the UNJSPB and at the duty station where the UJSPB session was to be held.

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39. In view of the likelihood of there being a meeting of the Standing Committee in February 1990 it was agreed that there might be a need to hold an additional session of the Council, or a meeting of the officers of the Council, prior to the Standing Committee. It was left to the discretion of the Chairman to convene such a meeting, it being understood that, with the exception of the chairman, the expenses involved would be borne by the Member Associations wishing to participate in it.

ANY OTHER BUSINESS
(Agenda item 14)

40. There being no further business before the meeting, the Chairman declared the 17th Session of the Council of FAFICS closed.

39.1 The representative of BAFUNCS, London, pointed out that in the event of the decision being to convene a meeting of the Officers of the Council, BAFUNCS and other Member Associations would be excluded from participation, whereas he knew that his own Association would be particularly interested in attending.

Council/17/1989/D.1/Rev.1

FEDERATION OF ASSOCIATIONS OF FORMER INTERNATIONAL CIVIL SERVANTS

Seventeenth Session of the Council, New York, 6-10 July 1989Agenda

| <u>Item No.</u> | | <u>Relevant paper or comment</u> |
|-----------------|---|--------------------------------------|
| 1. | Election of the Chairman of the Session | |
| 2. | Adoption of the Agenda | D.1 |
| 3. | Report of the President of the Council | |
| 4. | Reports of the appointed representatives of FAFICS to various bodies and meetings: | |
| | (1) Meetings of the UNJSPB and associated bodies | |
| | -- 168th Meeting of the Standing Committee of the UNJSPB | Distributed 7.9.88 |
| | (2) Other meetings | |
| | -- Meetings of the Board of the Conference of Non-Governmental Organisations (CONGO) | Reported under item 8 |
| 5. | Pension questions | |
| | -- Items on the agenda of the July 1989 the UNJSPB that are of concern to Council members | D.5 D.6 |
| 6. | After-Service Health Insurance | D.7 |
| 7. | Other social questions | |
| | -- (Exchange of information on activities to assist members in dealing with social problems - e.g. advice and assistance to individual pensioners; advice on locally available senior citizen services; social gatherings; availability of welfare or solidarity funds) | |
| 8. | FAFICS activities as an NGO | |
| 9. | Representation of FAFICS at the forthcoming sessions of the UNJSPB and ICSC | |
| 10. | Information activities within the Federation | |
| 11. | Future activities of the Federation: programme for 1989/90 | |

12. Financial questions
- (1) Approval of the accounts for 1988 D.2
 - (2) Auditors' report D.3
 - (3) Approval of the budget for 1989 D.4
 - (4) Scale of contributions for Member Associations for 1989/90
13. Election of Officers
14. Date and place of the Eighteenth Session of the Council of FAFICS
15. Any other business

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FEDERATION OF ASSOCIATIONS OF FORMER INTERNATIONAL CIVIL SERVANTS

Seventeenth Session of the Council, New York, 6-10 July 1989

Agenda

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|--|-----|
| (1) Approval of the accounts for 1988 | D.2 |
| (2) Auditors' report | D.3 |
| (3) Approval of the budget for 1989 | D.4 |
| (4) Scale of contributions for Member Associations for 1989/90 | |
13. Election of Officers
14. Date and place of the Eighteenth Session of the Council of FAFICS
15. Any other business

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Thirty-eighth session
Agenda item 23

Distr.
RESTRICTED

JSPB/38/R.30
10 July 1989

ORIGINAL: ENGLISH

UNITED NATIONS JOINT STAFF PENSION BOARD

Financial obligations of pensioners to their spouses
and former spouses

(The effect of marriage and its dissolution on benefits from the Fund)

Note submitted by the Federation of Associations of
Former International Civil Servants (FAFICS)

Introduction

1. At its thirty-seventh session (1987) the Board agreed, on the proposal of FAFICS, to include on the agenda of its thirty-eighth session an item entitled "The effect of marriage and its dissolution on benefits from the Fund". FAFICS undertook to provide a discussion paper on the subject.
2. Under the present Regulations, upon the death of a participant who was entitled to a retirement, early retirement, deferred retirement or disability benefit, or who died in service, the surviving spouse is entitled to a benefit (except if the participant had commuted into a lump sum the prospective spouse's benefit, which is possible only on the case of very small pensions, and subject to some restrictions in the case of a deferred retirement benefit). Subject to minimum provisions, the surviving spouses's benefit is equal to half of the benefit to which the participant was entitled, including that part thereof which had been commuted, or would have been entitled at the time of his or her death. If there is more than one surviving spouse, the benefit is divided among them, and if one of them dies or remarries, it is divided among the remainder.
3. The entitlement to a surviving spouse's benefit arises only if the participant was married to that spouse both at the time of separation from service and at the time of death. Thus, no benefit is due to a divorced spouse, irrespective of whether the divorce took place before or after separation from service. Similarly, no benefit is due if the marriage took place after separation from service.
4. The entitlement to a surviving spouse's benefit ceases if the spouse remarries. In such case the spouse is entitled to a lump sum equal to twice the annual rate of the benefit (except when there was more than one surviving spouse and the benefit had been divided among them).
5. No distinction is made between a widow and a widower.
6. On many occasions the attention of the Board was drawn to the

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shortcomings of these regulations which in some circumstances may lead to extreme hardship. Spouses who were counting on the entitlements accrued to their husband or wife from the Fund may find themselves, in case the marriage breaks down, deprived of all means of livelihood.

7. This subject has been considered by the Board, in one or another of its aspects, almost every year since 1978. On several occasions the Board had before it exhaustive studies prepared by its Secretary, as well as specific proposals. The General Assembly, in several of its resolutions dealing with the reports of the Board, requested the Board to study some aspects of the problem. The Board has not been able to identify any acceptable solutions and has been deferring the subject from one session to another, which would tend to show that the problem is both a genuine one and highly complex. A list of the documents of the Board on this subject since 1978 is appended in Annex 1.

8. Two different problems were considered by the Board at various times and it is important to establish a distinction between them: the possibility of enforcing, through the Fund, the obligations of the pensioner towards his or her spouse, and the desirability and feasibility of establishing new entitlements resulting from marriage.

Financial obligations of pensioners to their spouses

9. The first of these two issues was studied thoroughly by the Board between 1981 and 1983, as a result of the Shamsee case (1) and of two resolutions of the General Assembly. In resolution 36/118 (1981) the Assembly, "noting that no provision exists under the Regulations and Rules of the (Fund) with respect to the financial obligations of a pensioner to his or her spouse" requested the Board to study "the desirability and feasibility of measures to deal with such situations". The Assembly repeated this request in resolution 37/131 (1982).

10. The Board discussed the issue at several of its sessions. It reached the conclusion that such situations would only arise if there was a strong conflict between the pensioner and his or her spouse or former spouse and that it was neither competent nor equipped to pronounce itself on such a conflict, whether on legal or on moral grounds. It was the responsibility of appropriate national jurisdictions to adjudicate on this type of conflicts. The Board also concluded that it would be inconceivable to have a judgement in favour of the pensioner's spouse or former spouse executed directly against the Fund for two reasons: the Fund might be faced with conflicting judgements from different national jurisdictions and it was an international organ protected by the immunities of the United Nations.

11. The Board accordingly reported to the General Assembly at its thirty-eighth session (1983) that "the question of the financial obligations of pensioners to their spouses or former spouses should be left to the

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competent national tribunals, where it properly belonged, and that it saw no need for any changes in the Regulations or Administrative Rules of the Fund for dealing with the question" (2). The relevant extract from the report of the Board will be found in Annex 2.

12. This issue has not come before the Board since then, except that in 1985 and 1987 the Secretary consulted the Board on the desirability of amending the Administrative Rules so as to empower him to disclose, in appropriate cases, the address of the pensioner to the spouse or former spouse. The Board decided to reaffirm the rule under which no information concerning a participant may be disclosed without the latter's consent. It might be added that, had the Board concluded otherwise, the practical effect of such course of action would be very limited. A pensioner who wishes to conceal his or her whereabouts from his or her spouse or former spouse might leave with the Fund a simple forwarding address which would be of little use for the purpose of initiating a legal action.

Provision of survivors' benefits

13. The entitlement to survivors' benefits is a totally different problem. As long as the pensioner is alive he is the only beneficiary of the Fund. It is his or her responsibility to provide support to persons who may be dependent on such support. If that support is not forthcoming, national jurisdictions are the only ones that can offer redress. The situation changes drastically when the pensioner dies. From that moment his or her survivors acquire their own entitlement to benefits from the Fund and become beneficiaries in their own right. It is the responsibility of the Fund to define in its Regulations the categories of persons who may be entitled to survivors' benefits.

14. There are several issues to be considered in this context. The present paper contains a specific proposal with regard to one of them, i.e., the entitlements of a divorced spouse. Another issue, on which FAFICS may submit proposals at a later stage, concerns the entitlement to survivors' benefit in the event of marriage contracted after the participant's separation from service, for instance after the death of the first spouse to whom the participant was married during his or her period of service.

15. Even if the pensioner had been fulfilling his or her obligations to the former spouse, the latter has no claim on the Fund after the pensioner's death. Only the surviving (i.e. second or subsequent) spouse is entitled to a pension (provided the marriage took place before separation from service); if there is none the pension lapses (or goes to other survivors, i.e., orphans or secondary dependants). The divorced spouse, if he or she was dependent on the deceased pensioner for support, may find himself or herself in a dramatic situation.

16. It might be argued that it is the responsibility of every adult person to take the necessary steps to constitute a pension. If this were the case, there would be no case for surviving spouses' benefits. The model of non-working wife, dependent on her husband for support, while it may not be to everybody's liking, is still sufficiently prevalent for the Fund to be bound to take it into account. The case of a husband dependent on his wife, while less common, is not unknown either. An added dimension must be taken into consideration in the context of international organizations: a spouse accompanying a staff member serving abroad, often for very long periods, may be unable to find an occupation carrying pension rights, and in many duty stations is not even entitled to work.

17. The desirability of granting a benefit to a divorced spouse was examined by the Board on many occasions since 1978. In 1982 the General Assembly, in resolution 37/131, requested the Board "to examine the effect of the dissolution of a marriage on survivors' entitlements, together with the possibility of granting such benefits to spouses whose marriage was contracted after the service of a participant had ceased". Neither on this occasion, nor during its previous or subsequent consideration of this question, was the Board convinced that granting of a pension to a divorced spouse would be appropriate. It was also held back by possible actuarial effects of such a step as well as by the administrative complications which it would entail. These difficulties were reported to the Assembly at its thirty-ninth session (1984). Moreover, the Board believed that "under most private and public employee pension systems a divorced spouse has no direct right to a share in the pensions benefits". It recognized that it "did not have adequate detailed information on the treatment of divorced spouses under various national social security systems and under the pension schemes of other international organization" and undertook to report further to the Assembly after having received that information (3). The relevant extract from the report of the Board will be found in Annex 3.

18. At its thirty-fifth session (1986) the Board requested once more the Secretary to prepare a paper on this subject (JSPB/35/R.35, para. 126). In the paper submitted to the Board's thirty-seventh session (1987), the Secretary confined himself to reproducing substantive paper (JSPB/33/R.36) which had been analyzed by the Board in 1984 and expressed the opinion that "any further study would require an indication, either from the Board or the General Assembly, of the approach or approaches that might merit further consideration" (JSPB/37/R.26, para. 8). The Board decided "that no change should be made in the present policy" but accepted the offer of FAFICS to carry out another study of the issue and to present its findings to the Board (JSPB/37/R.36, paras. 113-115).

19. In the view of FAFICS the present system may, in many cases, produce extreme hardship and there is a strong case for its revision. A divorced spouse may have legitimately counted, during a good part of his or her life, on the pension entitlements of the husband or wife and did not constitute, or was not able to do so, his or her own entitlements. The breakdown of the

marriage need not necessarily entail a total loss of this expectation. FAFICS agrees with the Board's view, as reported to the General Assembly (para. 17 above), that the solutions adopted by national social security schemes and the pension systems of other international organizations may offer a good basis for a possible action by the Board.

20. A comprehensive survey of social security provisions relating to divorced persons was carried out in 1974 by the International Social Security Association in 26 countries (4). A summary of the results was published in 1978 (5); the section concerning survivors' benefits for divorced persons is reproduced in Annex 4.

21. While the systems applied in various countries differ considerably, the survey found four major patterns:

(a) schemes which grant a survivor's pension to a divorced spouse if she (6) meets the qualifying conditions, provided she was also receiving an alimony from the former husband (Austria, Denmark in certain cases, Czechoslovakia, Federal Republic of Germany in certain situations, Hungary, Italy, Poland, Switzerland, Yugoslavia);

(b) schemes which grant a survivor's pension to the divorced spouse if she meets the qualifying conditions, irrespective of whether she was receiving an alimony or not (Federal Republic of Germany in certain situations, France, Luxembourg, Netherlands, United States);

(c) schemes administering universal or assistance-based benefits, where accordingly there is no need for specific provisions for divorced spouses (Australia, Denmark, New Zealand, Norway, Sweden);

(d) countries which have no provisions for survivors' benefits for divorced spouses (Belgium, Canada, Finland, Israel, Japan, Mexico, Rumania, USSR).

22. While this survey took place a number of years ago, a recent publication of the International Social Security Association indicates that "in recent times, efforts have been made to extend dependant's rights to women who were not covered and were thus deprived of any protection: wives under certain social security schemes, common-law wives and divorcees in most schemes" (7). The Board may therefore conclude that payment of survivors' benefits to divorced spouses, under certain conditions, is a feature found in many national social security schemes.

23. The pension schemes in a number of international organizations also include provisions for the payment, in certain circumstances, of a survivor's pension to a divorced spouse of a deceased staff member or pensioner. This is the case of the pension scheme of the Coordinated Organizations (8). The relevant provisions of the Pension scheme rules applied by these organizations

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are reproduced in Annex 5. An almost identical system is applied by the European Communities; the corresponding provisions are reproduced in Annex 6 (9).

24. As can be seen, the rules applied by the two groups of organizations referred to in the preceding paragraph contain an important restriction which is also found in a number of national schemes: the entitlement of a divorced spouse to a survivor's pension is subordinate to a legal obligation of the staff member or of the pensioner to pay maintenance to the divorced spouse. If there is no such legal obligation, resulting from a court decision, it may be presumed that the divorced spouse was not in need of support from the former spouse, or that the spouses had agreed on other arrangements, or that the circumstances of the divorce were such that there was no justification in awarding maintenance. The Fund - if it decides to follow a similar system - cannot but give full faith and credit to decisions of national jurisdictions of member states.

25. FAFICS accordingly proposes that the Regulations of the Fund be amended so as to provide for the granting of a survivor's pension, under certain conditions, to divorced spouses of participants, on the lines similar to the system applied by the organizations mentioned in para. 23 above. While detailed regulations and rules will have to be very carefully drafted, the system could operate on the following lines:

(a) the divorced spouse of a participant shall be entitled to a widow's or widower's benefit, under Article 34 and 35 of the Regulations respectively, provided that the participant was, at the time of death, under an obligation to pay maintenance to the former spouse in virtue of a binding court decision, or of a settlement concluded by the parties, and provided that the former spouse had not remarried before the death of the participant.

(b) the pension of the divorced spouse shall be calculated as under Article 34, but it shall not exceed the amount of the maintenance payable at the time of the participant's death;

(c) if there is more than one divorced spouse entitled to the benefit, or if there is a divorced spouse (or spouses) and a surviving spouse entitled to the benefit, the total amount of the benefit shall be calculated as under Article 34 and divided among the persons entitled thereto in proportion to the duration of their marriage to the participant, provided that the amount of the benefit to which each former spouse shall be entitled shall not exceed the amount of the maintenance payable to him or her at the time of the participant's death;

(d) if one of the persons entitled to a benefit under these provisions dies or remarries, the benefit shall be redistributed in accordance with these provisions among the other persons so entitled.

26. If the Board is prepared to endorse a scheme on these lines, further studies will no doubt be necessary on its implications and practical application. Three important issues are mentioned in the following paragraphs.

27. The actuarial consequences of the scheme will of course have to be carefully evaluated. FAFICS believes that they will not be very significant. It is not proposed to create any new entitlement beyond the entitlements which already exist under Articles 34 and 35. The Fund will have to face expenditure additional to its present obligations (subject to transitional arrangements) only in cases where there is a divorced spouse entitled to a benefit and no surviving spouse, or when the divorced spouse entitled to a benefit lives longer than the surviving spouse. While such cases will occur, they will be probably rare, as experience shows that a divorce is often followed by remarriage, in many instances to a younger person.

28. Another important issue is the possibility of conflicting court decisions from different national jurisdictions being invoked in support of conflicting claims, such as one decision granting maintenance to the divorced spouse and another rejecting the claim for maintenance. It is submitted that the Fund cannot but give faith and credit to decisions rendered by the jurisdictions of the country of which the participant was a national and this rule would undoubtedly dispose of most of such cases. Further consideration should be given to situations in which the Fund would be faced with conflicting court decisions rendered in countries none of which was the country of the participant's nationality.

29. The third issue concerns transitional arrangements with a view to respecting acquired rights. Clearly a surviving spouse's pension already awarded cannot be reduced and if, under the new scheme, a divorced spouse is also entitled to a benefit on account of the same deceased participant this will be an additional expenditure for the Fund, though probably the impact of such situations will be insignificant. On the other hand, and subject to legal advice, it does not seem that a new rule which would reduce the prospective spouse's benefit not yet in payment could be challenged on the basis of acquired rights.

- (1) UNAT Judgement No. 245; see JSPB/R.656 (XXVII), paras. 6-28;
- (2) Official records of the General Assembly, Thirty-eighth session, Supplement No. 9(A/38/9), para. 56;
- (3) Official records of the General Assembly, Thirty-ninth session, Supplement No. 9 (A/39/9), paras. 111-112;
- (4) Christine COCKBURN and Dalmer HOSKINS, "Social Security and Divorced Persons", in International Social Security Review, 1976 No. 2, pp. 111-151;
- (5) Social Security Provisions in Case of Divorce, International Social Security Association, Geneva 1978;
- (6) The survey dealt mainly with provisions relating to divorced wives; the Fund will obviously apply the same solutions irrespective of sex;
- (7) Equal treatment in Social Security, International Social Security Association, Geneva 1988, p.27;
- (8) Organization for Economic Cooperation and Development, Council of Europe, North Atlantic Treaty Organization, Western European Union, European Space Agency;
- (9) Only the French text was available at the time of writing.

FEDERATION
des ASSOCIATIONS d'ANCIENS FONCTIONNAIRES INTERNATIONAUX
(F.A.A.F.I.)

FEDERATION
of ASSOCIATIONS of FORMER INTERNATIONAL CIVIL SERVANTS
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Genève,
27 July 1989.

To: All Member Associations

Record of Decisions of the Seventeenth
Session of the Council

Further to my circular letter of 13 July 1989 communicating to all Member Associations the Record of Decisions of the Seventeenth Session of the Council, I am now sending you herewith Appendix III to the Record: Summary of the main points taken up by the Council in its discussion with the Secretary of the UN Joint Staff Pension Fund on Friday, 7 July 1989.

Angela Butler,
Secretary of the Federation.

(New York, 6 - 10 July 1989)

Record of Decisions

Appendix III

The following is a summary of the main points taken up by the Council in its discussion with the Secretary of the United Nations Joint Staff Pension Fund on Friday, 7 July 1989.

a) Questions concerning the Comprehensive Review of the Pensionable Remuneration (RR)

In connexion with the mandated review of the methodology for determining the pensionable remuneration, the Council asked the Secretary about the progress made in the discussions in the ICSC Working Groups on the comprehensive review of total compensation.

The Secretary informed the Council that from the sessions of the Working Groups he had attended, and from information he had received, the trend of the discussions so far had been: a) to improve conditions in the field; b) to establish a floor salary rate applicable around the world (as was the case in the U.S. civil service), eliminating negative post adjustments, to which would be added a package of allowances; c) to introduce a distinction in the remuneration for hard currency and soft currency areas and eliminate regressivity in post adjustment rates (except due to pension contributions); and d) to establish a basic remuneration structure (basic salary plus cost-of-living, with the housing element removed from each of these) to which would be added a housing allowance component based on local housing costs and paid in local currency. The latter would eliminate place to place comparisons of housing costs.

The goal was to simplify the United Nations remuneration system and to make field service conditions more attractive to the Europe-based staff so as to facilitate staff mobility.

The Secretary thought that if housing (which accounts for some 15% of the present remuneration) were to be a separate allowance, then the issue would arise as to whether this allowance would be included in the establishment of the RR.

In addition to the changes that might be introduced in the remuneration system that would affect the FR, there was also the problem that the U.N./U.S. pensionable remuneration ratio stands at 130.1, an increase of 8% over the 119.7 ratio which existed on 1 August 1987. The widening of this ratio is to be reviewed by the ICSC at its session in August 1989, and the paper prepared by the Commission Secretariat on this question will be made available to the Board.

The Secretary said that decisions on the question of the margin changes in the total remuneration system affecting the FR would require close cooperation between the Commission and the Board.

b) The FAFICS paper on the Effects of Marriage and its Dissolution on Pension Benefits

The FAFICS paper identified three groups of problems: financial obligations of pensioners to their spouses and former spouses; provision of survivor's benefits to divorced spouses; and the establishment of a new benefit on remarriage after separation from service.

The study notes that in various countries and in some international or regional organizations legislation already exists to provide for a survivor's benefit to a pensioner's divorced spouse in cases where there existed a binding obligation resulting from a court order or from a settlement between the parties to provide financial support. Accordingly, the FAFICS study proposes that the Regulations of the Fund should be amended so as to provide for the granting of a survivor's benefit provided that the participant, at the time of death, was under a legal obligation to pay maintenance to the former spouse, and provided that the former spouse had not remarried before the death of the participant. In cases where there was a surviving spouse and a divorced spouse to whom the participant paid maintenance, the survivor's benefit would be pro-rated in proportion to the duration of the marriage.

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The Secretary noted that the question of a court decision would be a difficult issue as, in the case of U.N. participants and their spouses, there might be different national courts involved, or there might be no court decision. This proposal, therefore, if adopted, could be difficult to administer and in any case would not provide a solution to the hardship cases in which the participant's spouse or former spouse was simply abandoned. Nevertheless the Secretary agreed that the proposal merited consideration.

c) Measures to improve the Actuarial Balance of the Fund

In the Secretary's paper in this item (R.18) two measures were mentioned which were of particular concern to members of the Council although neither measure would affect persons who were actually in receipt of pensions:

- a) one economy measure mentioned was the elimination of the cost-of-living adjustments for deferred pensions until the participant reached age 55, instead of age 50 as at present. In response to a question as to whether the estimated savings of 0.91 per cent of pensionable remuneration was not too high, the Secretary confirmed that this was the correct figure.
- b) another economy measure mentioned was the establishment of a minimum qualifying vesting period of five years before a participant would be entitled to a disability or death benefit. The savings in this case would only amount to 0.10 per cent. Some FAFICS members strongly urged that such a measure should not be adopted as it would be a retrogressive step (for even in the days of the League of Nations the vesting period had been only one year) and would create extreme hardship.

The Secretary pointed out that the ILO comparative study of national and other pension schemes (R.19) showed that a similar qualifying period for such benefits existed in most other schemes which in addition, unlike the U.N. Pension Fund, do not provide for any children's allowance. Furthermore, the

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actuaries had pointed out that unless the increase in the mandatory age of separation was approved and the General Assembly agreed to increase contributions to 24%, the coming trend would be for a growing actuarial imbalance of the Fund due to the interest on the prior imbalance as a result of the short-fall in the past contributions required. For this reason all possible economy measures that would not directly reduce pensions had been mentioned in the paper.

d) Possibility of the Continuation of the Special Floor Exchange Rates after 1990

The Secretary reaffirmed that the General Assembly had adopted the floor exchange rates only as a temporary measure to alleviate the rush of resignations following the decreasing value of the dollar. The General Assembly would not have adopted this measure on a long term or permanent basis, and it had specified that this provision would not create any acquired right for staff separating after 1990. It was recognized that the expiration of this measure would again create differences in pensions for those separating before and after 1990. However, the Secretary expected that the pensions awarded prior to 1990 would not be affected by any measure that might replace the floor rates.

e) Flexibility of FAFICS Representation at the Board

The Secretary recalled that the issue of keeping the same number of representatives at the Board but rotating the persons involved had been raised last year and the chairman had ruled that there should be no flexibility. He expected the issue to be raised again at the forthcoming Board session, especially in connexion with the membership of the Standing Committee. As Secretary, he had to follow the decision of the Board and rule that there could be no flexibility at present.

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f) More liberal use of the Emergency Fund

The Secretary noted that he had made efforts to make the Emergency Fund more widely known to all pensioners and that there were certain requirements of documentary proof. He said that all applications were sympathetically considered and urged FAFICS member association to help ensure that the required procedures were followed. This would help avoid some of the delays that had occurred.

g) Possibility of reverting to the Dollar Track in Hardship Cases

Although it had been intended to raise this question with the Secretary it was noted that a study on it was already on the list of papers to be prepared by the Pension Fund Secretariat for a future session of the Board.