

met. Nor can the period 1 January 1970 to 1 July 1970 be considered, as the Applicant does, without regard to what happened from 1 September 1969 to 31 December 1969, nor without regard to what happened on 1 June 1970 and from 1 July 1970 to 1 September 1970.

Indeed, there would be no reason to change the Applicant's status as of the beginning of a month unless, calculated cumulatively from the beginning of the year to date, her receipts in her new post during that period had not exceeded what she would have received in her old post during the period by an amount equal to the prorated portion of one full step in the new post allocable to the period.

The Respondent's change of the Applicant as at 1 July 1970 from P-2 step I to P-2 step II had the effect of curing whatever slight pro rata deficiency there might have been by way of cumulative compliance with the Rule, and resulted in the Applicant's receiving by the end of the year slightly *more* than the amount required by the Rule.

The Applicant's contentions as to the methods used by the Respondent in the re-calculation are therefore overruled.

V. For the above reasons the application is rejected.

(Signatures):

Suzanne BASTID
Vice-President, presiding

Francis T. P. PLIMPTON
Vice-President

New York, 11 October 1973

MUTUALE-TSHIKANTSHE
Member

Jean HARDY
Executive Secretary

Judgement No. 176

(Original: French)

Case No. 170:
Fayad

**Against: The Secretary-General
of the United Nations**

Request by a technical assistance expert for validation by the Joint Staff Pension Fund of service completed before his participation in the Fund, as a judge in the Republic of the Congo.

Agreement between the Applicant and the Respondent that the application should be submitted directly to the Tribunal, notwithstanding that any decision upon the case must take account of the terms of the judiciary contract concluded between the Applicant and the Respondent, which provides that disputes shall be settled by recourse to an arbitration procedure.—Competence of the Tribunal to pass judgement on all aspects of the application.

Impossibility of judging the request for validation solely by reference to the Pension Fund Regulations.—Need to take account of the terms of the judiciary contract.—Examination of the scope of that contract.—Respondent's contention that the Applicant was not employed by the United Nations.—Contract clause indicating that the Applicant was not a member of the United Nations Secretariat.—Impossibility of deriving from that clause decisive proof that the Applicant was not employed by the United Nations.—Clause stating that the Congolese Government could be substituted for the United Nations as co-contractor after the contract had been in force for one year.—Consequently, the Applicant was not in the service of the United Nations.—Respondent's contention that the Applicant's appointment was not

subject to the Staff Regulations and Rules.—Validity of the contention, the Applicant having contracted his fundamental obligations to the Government of the Congo.—Conclusion of the Tribunal that by accepting the judiciary contract, the Applicant did not acquire the rights or incur the obligations of a United Nations staff member.—Respondent's contention that the Applicant could not claim admission to the Pension Fund for the period of service completed as a judge, either at the time or by way of subsequent validation.—The contention is valid, since the Applicant did not acquire the rights of a United Nations staff member.—Additional financial assistance was granted to the Applicant so that he could continue contributing to another pension scheme.—Rejection of the Applicant's claim that he was entitled to assume that his service as a judge could subsequently be validated.

Examination of the conditions in which the Applicant, having been admitted to the Pension Fund, requested validation of his service for the period covered by the judiciary contract.—Different conclusions reached by the Office of Personnel and the Pension Fund as to the legal effects of that period.—Correct interpretation of the Pension Fund.—Its decision refusing to validate was justified.—The Applicant suffered no prejudice, since the interpretation of the Office of Personnel had the effect of advancing his participation in the Pension Fund by two years.

The arguments drawn from provisions of the 1970 edition of the Pension Fund Regulations or the OPEX contracts are irrelevant or unnecessary.

Application rejected.

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Madame Paul Bastid, Vice-President, presiding; Mr. Mutuale-Tshikantshe; Sir Roger Stevens;

Whereas, on 6 December 1972, Georges Fayad, United Nations technical assistance expert, filed with the Tribunal an application in which he requests:

“ . . . validation by the Pension Fund of the period of prior service, from 3 March 1963 to 2 March 1965, during which the Applicant was not eligible for participation.”;

Whereas the Respondent submitted his answer on 9 February 1973;

Whereas, on 26 February 1973, a copy of the application was transmitted to the United Nations Joint Staff Pension Board under article 21 of the Rules of the Tribunal;

Whereas the Applicant submitted written observations on 9 April 1973;

Whereas the facts in the case are as follows:

From 3 March 1963 to 2 March 1965 the Applicant served as a judge in the Republic of the Congo (now the Republic of Zaire) under a contract, hereinafter referred to as a “judiciary contract”, concluded between himself and the United Nations. On 16 August 1965, he was appointed a United Nations technical assistance expert and stationed at Kinshasa as a legal adviser for transport and communications; his appointment, which was initially concluded for one year, was extended by two years on 16 August 1966 and further extended on other occasions until its expiry on 31 December 1972. The Applicant was admitted to the United Nations Joint Staff Pension Fund as an associate participant on 16 August 1965 and as a full participant on 16 August 1966. On 3 October 1966, in a memorandum to the Secretary of the Joint Staff Pension Board, he requested that the period of service he had completed before becoming a participant be included in his contributory service under article III.1 (a) of the Pension Fund Regulations concerning validation of non-pensionable service. Following an exchange of correspondence with the Applicant, the Secretary of the Board notified him, on 3 November 1967, that, having been informed by the Office of Personnel that under the terms of his contract the Applicant had been excluded from participation in the Pension Fund for the period from 3 March 1963 to 2 March 1965, the Fund could not validate that period. The Applicant having reiterated his request, the Secretary of

the Board wrote to him on 20 August 1971, stating that if he wished to raise once again the question of whether his contract for the period from 3 March 1963 to 2 March 1965 excluded his participation in the Fund and thus his right to validation, he should apply directly to the Office of Personnel. The Applicant submitted his case on 30 August 1971 to the Personnel Division of UNDP (United Nations Development Programme), referring to article 23 (a) of the Pension Fund Regulations and pointing out that he had become a participant in the year following the end of the period in question, that his request had been submitted in the year in which his participation had commenced, that the conditions of his appointment for the period for which validation was sought had not expressly excluded his participation during that period of service and that his request for validation covered the whole of the period in question. On 4 November 1971, the Office of Technical Co-operation replied, referring to a Personnel Action form in which his appointment as a judge of the Republic of the Congo had been recorded, that, his participation in the Pension Fund having been excluded by the Office of Personnel as his appointment was strictly governed by terms and conditions specifically designed for the Congo judiciary personnel, his period of service from 3 March 1963 to 2 March 1965 could not be validated. On 16 November 1971, the Applicant requested the Office of Technical Co-operation to reconsider his case for the following reasons:

“ . . . you invoke not the contract of employment, but a Personnel Action form, No. 63-2982, issued on 15 March 1963, in which it is stated not that I do not have the right to be a participant in the Pension Fund, but that I am not in fact a participant.

“Assuming (as is not the case) that what counts is not the terms of the contract signed by the two parties but the cryptic abbreviations of this unilateral Personnel Action form, I would draw your attention to the fact that what I am requesting is quite simply the validation, that is ‘the inclusion in contributory service of a period of non-contributory service which occurred prior to the commencement of participation’.

“You do not deny the right of validation to experts who, like myself, were not initially contributors to the Pension Fund and whose Personnel Action forms contain the negative reference on this point which you mention. I do not see why you should act differently in my case.

“ . . . ”

On 11 January 1972, the Office of Technical Co-operation replied to the Applicant to the effect that he had been excluded from participation in the Pension Fund for the period in question because his judiciary contract stipulated that he was not a member of the staff of the United Nations. On 25 January 1972, the Applicant sent the following letter to the Office of Technical Co-operation:

“ . . . ”

“The contract to which you refer and under which I was employed with effect from 3 March 1963 to 2 March 1965 was concluded between the United Nations and myself. In that contract, as in most of those which you are not questioning, although service was rendered to the benefit of a third public person, the employer was still the United Nations.

“Nowhere in that contract did the conditions of my appointment expressly exclude my participation in the Staff Pension Fund. Nowhere is it stated that I am not a member of the staff. Moreover, the contract states that benefits will be provided by the United Nations under terms, conditions, definitions and limitations generally the same as those applicable to its staff members in the category of project personnel.

“Even supposing that under that contract I was not then qualified to participate in the Pension Fund, it would in no way prevent my subsequently requesting ‘to validate prior service during which I was not eligible for participation’, and that is what I am now doing.

“ . . . ”

On 14 March 1972, the Office of Technical Co-operation replied to the Applicant as follows:

“ . . . ”

“The Office of Personnel has advised that during the period 3 March 1962 [1963?] to 2 March 1965, you served under a contract which explicitly stipulated that you were not a staff member of the United Nations Secretariat. Since only staff of a Member Organization of the Fund can be considered participants, it follows that by virtue of the terms of your appointment you were excluded from participation in the United Nations Joint Staff Pension Fund. This should preclude, at present, the validation of the above-mentioned period of two years under Article 23 (a) (iii) of the Regulations of the Fund.

“ . . . ”

On 25 March 1972, the Applicant wrote to the Secretary-General, requesting that the decision rejecting his request for validation of the period from 3 March 1963 to 2 March 1965 be re-examined. On 21 April 1972, the Director of Personnel replied that the decision must stand for the following reasons:

“ . . . ”

“The period for which you request validation was governed by a special contract which stipulated, in article VI.2, that your service in the judiciary of the Republic of the Congo did not confer upon you the status of a member of the staff of the United Nations. Service which can give rise to participation in the United Nations Joint Staff Pension Fund is defined in article 1 (u) of the Regulations of the Fund, which states: ‘“Service” shall mean employment as a full-time member of the staff of a member organization’. Similarly, article 21 (a) of the Regulations states that ‘Every full-time member of the staff of each member organization shall . . . become a participant in the Fund’.

“Since, during the period in question, you were not a member of the staff of the Organization, you did not meet the essential condition for participation in the Fund and, therefore, the period in question cannot be validated. Under article 23 of the Regulations, validation can be granted only in respect of ‘prior service’, the term ‘service’ being interpreted as defined in article 1.

“I should like to point out that the explanation given to you to the effect that you were excluded, under the terms of your contract, from participation in the Fund, was inaccurate. Exclusion affects only those persons eligible to participate whose participation is nevertheless precluded by an express clause in their contract. In your case, you were in no way eligible to participate because you were not a member of the staff of a member organization, therefore the question of excluding you from participation could not arise. This explanation is in answer to the contention in your letter that exclusion could not be implied but must be express. In fact, since you never fulfilled the necessary conditions for participation in the Fund, there was no reason to exclude you therefrom.

“I must add that this has always been the position of the Administration in similar cases. The appeal submitted under the same conditions by another former judge of the Congolese judiciary was rejected by the Joint Appeals Board, which upheld the Administration’s position.

“ . . . ”

On 28 June 1972, the Office of Personnel proposed that the Applicant submit his case directly to the Tribunal under article 7, paragraph 1 of its Statute. The Applicant accepted that proposal on 15 September 1972, and on 6 December 1972 he filed the application referred to above.

Whereas the Applicant's principal contentions are:

1. The judiciary contract was signed by the Applicant and by the Director of Personnel of the United Nations, not by the Congolese Government. It was concluded for the benefit of that Government, but that does not distinguish it from contracts concluded with technical assistance experts, who are entitled to a pension. Moreover, the United Nations was the Applicant's sole employer and co-contractor during the entire period in question. The Respondent therefore has no grounds for claiming that the Applicant was not a United Nations staff member and was not entitled to participate in the United Nations Joint Staff Pension Fund.

2. The differentiation between OPEX officials and technical assistance experts may at best serve to clarify the fine distinctions in the relations which the individual concerned must maintain with the local authorities, but it in no way justifies the discrimination practised in matters of social security between different United Nations officials. Accordingly, it is not without good reason that article 23 of the Pension Fund Regulations makes provision for those who have become participants to validate prior service during which they were not eligible under the Regulations for participation. What the Applicant is requesting is precisely the validation of such a period. If such participation is granted to experts who become OPEX officials, it cannot be denied to OPEX officials who become experts.

3. The definition of the word "service" which appears in the 1970 edition of the Pension Fund Regulations did not appear in the 1963 edition. Furthermore, the judiciary contract, concluded in 1963, stipulates that "the United Nations desires to engage the services" of the Applicant, while the OPEX contracts state that "the Officer, as employee, agrees to place his services at the disposal of the Government as his employer"; however, the OPEX contracts entitle the officer to continue to participate in the Pension Fund; there is therefore no reason to deny the Applicant this advantage.

4. The judiciary contract is a contract in which the conditions are fixed by one party in advance, the provisions of which have not been freely discussed and agreed to by both parties. One of those provisions states that the judge shall not have the status of a United Nations staff member. It was not for the party who drew up the contract to modify the status of a function and apply to it a description which is not in keeping with its nature and the substance of the assignment.

Whereas the Respondent's principal contentions are:

1. Although the Republic of the Congo was not itself a party to the judiciary contract, the latter presupposed that the Applicant would be duly appointed as a judge by the Republic of the Congo. The Respondent only concluded the contract with the Applicant after having been informed of the agreement of the Congolese Government to appoint the Applicant and the agreement of the latter to accept that appointment. Accordingly, the Applicant did not take up his appointment on the basis of the judiciary contract, but by virtue of his appointment as a judge by the Head of State.

2. It is clear from the provisions of the judiciary contract—which the Applicant freely accepted before they entered into force—that the Applicant would perform his functions on behalf of the Republic of the Congo and subject to the latter's authority and that he would not have the status of a United Nations staff member.

3. Since the judiciary contract was not subject to the Staff Regulations established by the General Assembly, the Applicant was not appointed under Article 101 of the Charter and was not therefore a United Nations staff member, especially since certain

provisions of that contract were patently inconsistent with the Staff Regulations. Furthermore, no relevant provisions of the said Staff Regulations had been incorporated in the judiciary contract by reference.

4. The benefits of Staff Regulation 6.1 are extended only to staff members employed subject to the Regulations. The obligation on the part of the Respondent to provide for the participation of an individual in the Pension Fund could only be derived from that Staff Regulation or from an express contractual provision to that effect. In any case, under the Pension Fund Regulations, the Respondent could not have secured the participation of the Applicant (or validation of his services) for a period during which he was not a full-time member of the staff of the United Nations.

5. Even if the period of service in question had been subject to the Pension Fund Regulations, that period could not have been validated because the Applicant did not fall into either of the categories provided for in article III of the Regulations.

6. Prior to his acceptance of the judiciary contract, the Applicant was informed that he would receive an *indemnité de non-titulaire* which was intended to help him maintain any contributions to a pension scheme other than that of the United Nations.

The Tribunal, having deliberated from 1 to 12 October 1973, now pronounces the following judgement:

I. The Tribunal notes that it is agreed between the Applicant and the Respondent that the application be submitted directly to the Tribunal, notwithstanding that any decision upon the case must take account, *inter alia*, of the terms of the judiciary contract concluded between the Applicant and the Respondent (acting in conjunction with the Government of the Congo) which provides that disputes shall be settled by recourse to an arbitration procedure other than the procedure provided for in the Staff Regulations and Rules. In agreeing that the application be submitted directly to the Tribunal, the Respondent took into account the fact that the dispute does not relate only to the terms of such contract but also to the interpretation of the United Nations Joint Staff Pension Fund Regulations. In these circumstances, the Tribunal concludes that it is competent to pass judgement upon all aspects of this application in conformity with article 2 of its Statute.

II. The application takes the form of a request for validation of prior service within the terms of the Pension Fund Regulations. However, that request cannot be judged solely by reference to those Regulations; the judgement must of necessity take account of the terms of the Applicant's judiciary contract and of his rights under that contract. The Tribunal accordingly proposes to examine first the scope of that contract and then the circumstances in which the Applicant was admitted to full participation in the Pension Fund and the contentions on which his request for validation is based.

III. The judiciary contract between the Applicant and the United Nations was concluded on 21 March and 4 April 1963 and provided for the Applicant to serve as a judge of the Republic of the Congo for a period of two years beginning 3 March 1963. This contract, which made reference to an agreement to be concluded between the United Nations and the Government of the Republic of the Congo, provided, *inter alia*, for the Applicant to be remunerated by the United Nations, for an arbitration procedure to be established by the United Nations to settle any dispute which might arise from non-observance of the provisions of the contract, and for the possibility of the Government of the Congo being substituted for the United Nations as co-contractant after the end of the first year, if the United Nations and the Government so agreed. The contract specified that the Applicant was not a staff member of the United Nations Secretariat and that he should neither solicit nor accept instructions from any other Government or any authority external to the Republic of the Congo. The legal status

of the Applicant under the contract and his position in relation to the United Nations Staff Regulations and Rules and to the Joint Staff Pension Fund were not otherwise defined.

IV. The Tribunal has examined the contentions of the Respondent that:

- (1) The Applicant was not employed by the United Nations;
- (2) He was not covered by the United Nations Staff Regulations and Rules;
- (3) He was therefore precluded from entitlement to the benefits of the Pension Fund, either by way of participation or by way of subsequent validation.

V. As to the first contention, it is true that the contract stated clearly that the Applicant was not a member of the United Nations Secretariat. But the fact that the contract had been concluded by the United Nations could lead to misunderstanding. Thus, one of the preambular paragraphs stated that "the United Nations desires to engage the services" of the Applicant, a formula which could be taken to mean that the Applicant would be employed by the United Nations, if not as a member of the Secretariat, then at least in some other capacity. Indeed, in a report drawn up on 5 April 1963 by the United Nations Office in Kinshasa, the Applicant was described as a staff member, and the file shows that as late as 1967 he considered that he had been employed by the United Nations during the period in question. In so far as the Respondent relies on the contract clause indicating that the Applicant was not a member of the United Nations Secretariat to prove that the Applicant was not employed by the United Nations, the Tribunal considers that the contention is not entirely convincing.

VI. On the other hand, it is clear from the contract that the Applicant could, without having been consulted or advised, have ceased to have any administrative link with the United Nations if the Government of the Congo had been substituted for the Organization after the contract had been in force for one year. That substitution did not in fact take place. But the Tribunal cannot accept the conclusion that the Applicant draws, namely, that he *ipso facto* continued to be employed by the United Nations. On the contrary, the Tribunal considers that that clause shows in fact that the Applicant was not in the service of the United Nations; otherwise, the conclusion would have to be drawn that under the contract the Applicant could change employers without further formality.

VII. The Tribunal considers well founded the Respondent's second contention, that the Applicant's appointment was not subject to the Staff Regulations and Rules of the United Nations. Thus the clause in the contract providing that the Applicant must neither seek nor accept instructions from any other Government or any authority external to the Republic of the Congo shows that it was to the Government of the Congo that the Applicant had contracted his fundamental obligations. It is certain that such a commitment is incompatible with Staff Regulation 1.1, which reads:

"Members of the Secretariat are international civil servants. Their responsibilities are not national but exclusively international. By accepting appointment, they pledge themselves to discharge their functions and to regulate their conduct with the interests of the United Nations only in view."

Moreover, the clauses of the contract governing annual leave, sick leave and the settlement of disputes differ from the provisions of the Staff Rules, and no other provision of the contract allows the conclusion that the Staff Regulations and Rules of the United Nations were applicable to the Applicant. Finally, as the Respondent points out, the contract did not contain any clause indicating that the provision for the participation of staff members in the Pension Fund mentioned in Staff Regulation 6.1 had been made in the Applicant's case.

VIII. In view of the foregoing considerations, the Tribunal decides that by accepting the judiciary contract, the Applicant did not acquire the rights or incur the obligations of a United Nations staff member.

IX. Since the Applicant did not acquire the rights of a United Nations staff member, including the right to participate in the Pension Fund, the Tribunal accepts the Respondent's third contention, namely, that the Applicant could not claim admission to the Fund for the period of service completed as a judge, either at the time, or by way of subsequent validation. The Tribunal observes that it was not specified in the contract itself that the Applicant did not have the right to participate in the Pension Fund, and that misunderstanding could doubtless have been avoided by inserting a clause to that effect. On the other hand, the Tribunal notes that in a letter dated 6 February 1963 setting out the conditions of employment the United Nations Recruitment Service informed the Applicant that at the end of his appointment he would receive an indemnity calculated at 5 per cent of his net base salary to enable him to continue contributing to a pension fund other than that of the United Nations. Moreover, it was specified in a Personnel Action form dated 15 March 1963 that the Applicant was excluded from participation in the United Nations Staff Pension Fund. Thus, the Applicant was not only advised indirectly that he was excluded from participation in the Fund; he was also informed that he would receive additional financial assistance to help him to continue contributing to another pension scheme. The Tribunal therefore considers unfounded the Applicant's claim that he was entitled to assume that his service as a judge could subsequently be validated for pension purposes.

X. The Tribunal must now consider the conditions in which the Applicant, having been admitted to the Pension Fund, requested validation of his service for the period covered by the judiciary contract.

XI. After being employed as a United Nations technical assistance expert for one year (from 16 August 1965 to 15 August 1966), during which period he was an associate participant in the Pension Fund, the Applicant was offered, and accepted, a new two-year appointment with the United Nations, from 16 August 1966 to 15 August 1968. On 3 October 1966, he applied to become a full participant in the Fund, pointing out that he had been employed by the United Nations under a two-year contract from 1963 to 1965, then for one year from 16 August 1965 as a technical assistance expert, and that having already concluded a new two-year contract—which brought his period of service up to five years—he fulfilled the conditions laid down in article II of the Regulations of the Fund. At the same time he requested, “consequently and by virtue of” article III.1 (a) of the Regulations as then drawn up, that the period of service he had completed before becoming a full participant be included in his contributory service. Since he did not refer in his request to article III.1 (b) (which covers employment as a full-time staff member of a member organization prior to entry into the Fund as an associate participant), it must be supposed that at that stage the Applicant thought that his judiciary contract conferred on him the status of associate participant.

XII. In reply to the above-mentioned letter, the Office of Personnel issued on 4 November 1966 a Personnel Action form described as an “amendment to show entitlement to full participation in the United Nations Joint Staff Pension Fund (from 16 August 1966), in accordance with article II paragraph 2 of the Regulations of the Pension Fund”. The reference to article II.2 (which under certain conditions allows the five-year period required in article II.1 to be calculated by adding up discontinuous periods of service) indicates clearly that the Office of Personnel considered at the time that the two years' service completed by the Applicant under his judiciary contract constituted a period of service that allowed him to become a full participant in the Fund.

XIII. As to the Applicant's request for validation, the Secretary of the Joint Staff

Pension Board informed him in a letter dated 2 March 1967 that he would be informed of the amount he would have to pay in order to validate the period of service during which he had been an associate participant. Taking into account the contents of paragraph XII above, the Applicant probably thought that what was involved was his total period of service since March 1963, while, as had been explained in a communication of 3 November 1967, the Fund intended to validate only the period of one year during which the Applicant had been an associate participant.

XIV. The Office of Personnel and the Pension Fund therefore reached different conclusions as to the legal effect of the period of service completed by the Applicant under his judiciary contract. The interpretation of the Office of Personnel allowed the Applicant to become a full participant two years earlier, but the Tribunal considers that it was the Pension Fund which interpreted article III of its Regulations correctly. The Applicant, when requesting validation, invoked article III.1 (a), which applies only to the period of service during which he was an associate participant, and it is clear that the Applicant did not have that status during the period of service completed under his judiciary contract. Nevertheless, even if the request for validation had been made under article III.1 (b), that period of service could not have been validated because, as the Tribunal has shown above, the Applicant was not at the time a full-time staff member of a member organization. Consequently, the Tribunal considers that the decision by the Pension Fund to refuse to validate the Applicant's period of service under his judiciary contract was justified.

XV. The Tribunal considered whether the divergence of opinion between the Office of Personnel and the Pension Fund regarding the Applicant's period of service as a judge had been prejudicial to him in any way. The Tribunal must point out that the decision taken on that subject by the Office of Personnel had the effect of advancing the Applicant's participation in the Pension Fund by two years. The Applicant did not claim and could not claim that the decision had prejudiced his interests.

XVI. In reaching the conclusions set out above, the Tribunal did not feel it necessary to take account of the arguments drawn by the parties from provisions of the 1970 edition of the Pension Fund Regulations or the OPEX contracts. As the Respondent has pointed out, the 1970 edition of the Regulations is not retroactive, and the Tribunal therefore considers that its provisions are not relevant. As to the OPEX contracts, although there are features common to those contracts and the Applicant's judiciary contract, there are also certain differences between them, and it did not seem to the Tribunal that it was necessary to use arguments based on the OPEX contracts in the present case, which was decided on the basis of texts that were directly applicable.

XVII. Having examined all the facts and circumstances relevant to the Applicant's request for validation by the Pension Fund of his period of service under his judiciary contract, the Tribunal decides:

(1) That the Applicant did not acquire the rights or incur the obligations of a United Nations staff member by virtue of the clauses of the contract;

(2) That the Applicant is not entitled to validation by the Pension Fund of this period of service, during which he did not fulfil the requirements of article III.1 of the Pension Fund Regulations then in force.

XVIII. For these reasons, the application is rejected.

(Signatures):

Suzanne BASTID
Vice-President, presiding
MUTUALE-TSHIKANTSHE
Member

Roger STEVENS
Member
Jean HARDY
Executive Secretary

New York, 12 October 1973