

Committee on Budget, Finance and Administration

AGREED TERMINATIONS

Note by the Secretariat¹

1. As requested by the Committee on Budget, Finance and Administration at the meeting held on 8 May 2002, the present paper sets out a proposal for the establishment of a scheme to facilitate the agreed termination of regular staff.

Introduction

2. In certain cases, the Organization has an interest in facilitating the early departure of staff from the Secretariat. Such an interest arises, for example, in cases where the Director-General wishes to restructure the Secretariat in order better to respond to the needs of Members or where the skills of the staff member no longer correspond to programme requirements. A scheme to facilitate agreed terminations would enable the Director-General to take such actions in a timely manner and on a mutually agreed basis. Such a scheme would not be used in those cases where separation from service is the result of unsatisfactory performance or where it has been decided to suppress the post concerned. In such cases, the Organization may proceed with separation without having to obtain the consent of the staff member. Similar arrangements have been introduced by other intergovernmental organizations, although the precise details vary from organization to organization according to their particular regulations and rules and to their particular requirements.

Target population

3. A scheme to facilitate agreed terminations would be designed to target those staff members whose services are no longer required by the Organization and whose early separation from service would be in the mutual interest of the WTO and the staff member. Such situations may arise in any sector of the Secretariat and at any level. In order to be effective, an agreed termination scheme should therefore not be limited to specific occupational groups or levels of the hierarchy. Any staff member should be free to apply for consideration under the scheme. The final decision would be taken by the Director-General (see paragraph 7, below).

Structure of the agreed termination scheme

4. Each agreed termination package would be composed strictly in accordance with the relevant provisions of the Staff Regulations and Rules and Pension Plan Regulations. A staff member who separates from service enjoys certain statutory entitlements. These include, for instance, separation grant, commutation of unused annual leave and pension entitlements. There are other statutory provisions, the application of which may be varied depending on the circumstances of the case and the interest of the Organization. These “variable” entitlements include the termination indemnity, pay in lieu of notice and special leave. The agreed termination scheme would comprise only the “variable” entitlements since all other entitlements are in any event due to the separating staff member.

¹ This document has been prepared under the Secretariat’s own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

5. In order to be effective, an agreed termination scheme should be flexible. It should be possible to adjust certain elements of the scheme provided that the needs of the Organization are met and the relevant Regulations and Rules are strictly observed. For instance, in certain cases, particularly when the staff member has rather short pensionable service, it might be in the interest of the staff member to be able to remain on special leave at the end of his/her service in order to be able to retire at the normal retirement age and thus avoid early retirement penalties. In other cases of, for instance, long-serving staff, it would not be in the interest of the staff member to delay drawing a retirement pension.

6. The provisions governing the termination indemnity and payment of salaries and allowances in lieu of notice include a margin of flexibility which may be used in those cases where a mutually agreed termination is desirable in view of the needs of the Organization.

7. An agreed termination scheme should be structured in such a way as to ensure equal treatment for all staff members. The elements and size of the package should not depend on the negotiating power or influence of the staff member but should rather be based on predictable and transparent parameters. At the same time, the Director-General should ultimately retain the discretionary power to determine which staff members should be accorded agreed terminations. The exercise of that discretion would remain subject to the normal constraints of consistency of practice and non-abuse of power in order to protect the Organization from any challenge against such decisions before the Joint Appeals Board and/or ILO Administrative Tribunal.

Construction of possible agreed termination packages

8. As stated in paragraph 4, above, the elements of an agreed termination package would comprise only the “variable” entitlements, including termination indemnity, pay in lieu of notice and special leave.

Termination indemnity

9. Under Staff Regulation 10.6, where termination action is desirable in view of the needs of the WTO, on terms mutually agreed with the staff member, the termination indemnity may be increased in exceptional cases by up to 50 per cent. The maximum termination indemnity payable after 15 or more years of service amounts to 12 months of salary, or 18 months after application of the discretionary increase. In order to develop a meaningful scheme, the Secretariat would apply the 50 per cent mark-up to all cases of agreed termination.

Pay in lieu of notice

10. The Staff Rules provide for a maximum period of notice of termination of three months. Pay in lieu of notice may be exceptionally authorized by the Director-General. The Secretariat would grant a payment corresponding to three months’ notice, to be increased by one month for every year of service beyond 15 years of service.

Special leave

11. As explained above, the granting of special leave would permit the staff member concerned to remain in the Pension Plan, to continue contributing to the Pension Plan if he/she so wished and to retire with a better pension. Such an arrangement would be particularly helpful for those who have not yet reached the minimum retirement age or who would otherwise be subject to early retirement penalties. In the case of special leave, the precise details would have to be adjusted according to each particular case.

Establishment of an agreed termination fund

12. The purpose of an agreed termination fund would be to finance those “variable” parts of a termination package which are not already covered by the standard cost calculation in the budget. The aim would be gradually to constitute a fund which would enable the Organization to respond to changing operational and staffing needs. The fund would be replenished on an annual basis as required.

13. Given an average net salary in the WTO of CHF 109,000 and an average length of service of 12 years, it is estimated that the average agreed termination package would cost approximately CHF 200,000. If an agreed termination fund of CHF 2 million were established, it would allow approximately 10 separations in any one year. The fund could be maintained at that level either by transfers from the overall WTO surplus, if any, or by means of a budget allotment.

Proposal

14. In conclusion, this paper has been prepared at the request of Members of the Committee on Budget, Finance and Administration who wished to consider establishing an agreed termination scheme in order to permit the WTO to separate on a mutually agreed basis those staff whose services are no longer required by the Organization. The scheme would be structured to include “variable” entitlements including termination indemnity, pay in lieu of notice and special leave. It would be open to all staff and would be based on predictable and transparent parameters. The scheme would be financed from a fund which would be initially established and subsequently replenished by transfers from the overall WTO surplus, if any, or through a budget allotment. The initial target for the agreed termination fund would be CHF 2 million.
