IMMEDIATE ATTENTION

EBAP/84/152

July 13, 1984

To: Members of the Executive Board

From: The Acting Secretary

Subject: Proposed Amendments to the Staff Retirement Plan

There is attached a report from the Pension Committee of the Staff Retirement Plan recommending the adoption of amendments to the Staff Retirement Plan and the establishment of a supplemental benefits plan in order to compensate for payments that would have been made from the Staff Retirement Plan but for the incorporation of the limitations in the amendments.

In the absence of a request from a member of the Executive Board before noon on Monday, July 16, 1984, that this matter be taken up at a Board meeting, the recommendations of the Pension Committee will be deemed approved and it will be so recorded in the minutes of the next meeting of the Executive Board. Upon adoption, the amendments will be reported to the Internal Revenue Service no later than July 17, 1984.

Att: (1)

Other Distribution:
Department Heads

July 13, 1984

To: Members of the Executive Board

From: The Acting Chairman, Pension Committee
Staff Retirement Plan

Subject: Proposed Amendments to the Staff Retirement Plan

The Pension Committee met on Tuesday, July 10, 1984, to consider the attached report from the Administration Committee of the Staff Retirement Plan circulated as RP/CP/84/5 (7/5/84) and Correction 1 (7/10/84). The Committee reviewed the proposed amendments set forth in Attachments I and II to the Administration Committee's report and recommends their approval.

The Committee also endorsed the proposal for a supplemental benefit plan in order to compensate for payments that would have been made from the Staff Retirement Plan but for the incorporation of the limitations in the proposed amendments. The Committee recommends the establishment of such a plan and, to this end, will study the various alternative types of plans discussed in the report in order to make a further recommendation on this matter to the Executive Board in the coming weeks.

Attachment: (1)

Office Memorandum

To: Chairman, Pension Committee
Staff Retirement Plan

Date: July 10, 1984

From: Chairman, Administration Committee
Staff Retirement Plan

Subject: <u>Proposed Amendments to the Staff Retirement Plan</u>

In the attached memorandum, a set of proposed amendments is put forward, which would be submitted to the Pension Committee for its approval at a meeting to be scheduled for July 10, 1984. These amendments would incorporate, among other things, the limitations of Section 415 of the U.S. Internal Revenue Code in order to maintain the qualified status of the Staff Retirement Plan. Since the limitations would affect the maximum amount of employer-derived pension that could be paid from the Staff Retirement Plan, a proposal for a supplemental benefit plan is made. The latter would compensate for amounts that would have been received but for the limitations. The consulting actuary has advised that the establishment of such a plan would not add to the current cost of the Employer.

Attachment

Office Memorandum

To: Chairman, Pension Committee
Staff Retirement Plan

Date: July 10, 1984

From: Chairman, Administration Committee
Staff Retirement Plan

Subject: Proposed Amendments to the Staff Retirement Plan

1. From its inception, the Staff Retirement Plan (SRP) has maintained a qualified status under the United States Internal Revenue Code. An important benefit resulting from this status is that the Employer's contributions to the Plan are not taxable to participants at the time that they are made in respect of those subject to U.S. income tax. 1/ They would be taxable to them at that time if the Plan were not qualified. It follows that the amount of income tax reimbursement payable by the Fund to its employees in respect of U.S. income tax is less than it otherwise might be, 2/ under the reimbursement policy of the Fund in accordance with Section 14(b) of the By-Laws.

2. The United States amended its Internal Revenue Code (IRC) through the enactment of the Tax Equity and Fiscal Responsibility Act (TEFRA). Two changes made by TEFRA bear on the continued qualification of the Plan: (i) One change introduced a limitation on the period during which payments may be made to a beneficiary following the death of a participant (or retired participant) and his spouse. This matter has already been dealt with through an amendment to the Plan that became effective on December 5, 1983. 3/ (ii) The other change made by TEFRA that bears on the continued qualification of the Plan is a provision that, among other things, lowers a ceiling on the amount of pensions which may be paid from the Plan that is attributable to employer contributions. 4/ The latter is the subject of this paper.

1/ Certain other tax benefits are also relevant. Thus a distribution from a qualified plan which satisfies the requirements of a "lump sum distribution" will receive favorable tax treatment under IRC Section 402. In addition, distributions from a qualified plan attributable to an employer's contributions are excludible from the federal estate tax up to $100,000 under IRC Section 2039.

2/ It is estimated that the additional cost through tax reimbursement would be about $2.5 million annually assuming contributions of the Employer at the rate of 14 per cent of gross salary.

3/ See RP/CP/83/18, dated November 28, 1983. The amendment was designated Section 4.12. It would be redesignated as Section 4.13. See page 15 of Attachment I of this paper.

4/ The portion of a pension attributable to employee contributions is not subject to this ceiling.

3. Before the amendments made by TEFRA, the limitations for a defined benefit plan (like the Staff Retirement Plan) which had been introduced by the Employee Retirement Income Security Act (ERISA) were expressed in IRC Section 415 so that the maximum annual benefit that could be funded was the lesser of $75,000, or 100 per cent of a participant's average compensation during his highest three consecutive years. 1/ Through cost of living adjustments, the former limit reached $136,475 in 1982. It was clear that the limitation as thus applied was unlikely ever to affect pensions payable by the Staff Retirement Plan and the Plan was able to obtain a favorable determination letter from the Internal Revenue Service in 1978. In accordance with that determination, the Plan qualified in respect of ERISA requirements and no amendment had to be introduced specifically dealing with the ceiling on pensions. 2/

4. TEFRA has lowered the limit of IRC Section 415(b) to $90,000. 3/ This limit was not to be subject to cost of living increases until 1986. Congress has just passed a bill that would postpone this date until 1988. No pension currently being paid exceeds the TEFRA-reduced limitation of IRC Section 415(b). Nevertheless, the pension entitlements of a few senior staff members with long service may rise above that limitation both before and after that date. 4/ With this in mind, the Administration Committee approved a set of proposed amendments that would incorporate into the Staff Retirement Plan, in order to maintain its qualified status, the limitations 5/ of IRC Section 415(b).

1/ In the proposed amendments that are set out in the Attachment to this paper, the term employed is "highest average gross remuneration" in keeping with the language of the Plan. It should be noted that under the Staff Retirement Plan, the maximum pension that can be paid is 70 per cent of this calculation.

2/ The determination letter was issued by the Internal Revenue Service on the basis of the representation of the Employer that:

> "(i) the Plan does not provide for the payment of benefits that, with respect to any present participant would exceed the limitation of subsection (b) of Section 415 of the Code; and (ii) in the event that the prospective payment of benefits in respect of a particular participant could exceed this limitation, the Fund would promptly notify the Internal Revenue Service of this fact." Letter from the Director of Administration to IRS, dated July 21, 1978.

3/ Among other adjustments, this limit is adapted downwards for participants retiring before age 62 and upwards for participants retiring after age 65.

4/ Recently a case has arisen in which the payments that could have become available to a retiring staff member, but for an option elected by him, would have exceeded the limitation. The Internal Revenue Service was notified in accordance with the representation that was made in the letter from the Director of Administration to IRS, dated July 21, 1978.

5/ TEFRA has modified ERISA limits on the annual additions that can be made in respect of an employee under a defined contribution plan and, to the extent that these limitations may apply to the Staff Retirement Plan, they are also reflected in the proposed amendments. See pages 16-17 of Attachment I to this paper.

5. The proposed amendments that were approved by the Administration Committee (set out in Attachment I) are substantially similar to amendments that were approved by the IBRD's Executive Directors. In order to comply with certain deadlines of the Internal Revenue Service, the proposed amendments were forwarded to it for its comments on the understanding that they might be altered (or even rejected) by the Pension Committee or the Executive Board. The Internal Revenue Service has responded by issuing a favorable determination letter indicating its opinion that the proposed amendments, if adopted in a timely manner, would serve to continue the status of the Staff Retirement Plan as a qualified plan. 1/

6. It should be noted that the set of proposed amendments in Attachment I includes, in addition to those that would incorporate the limitations of IRC Section 415(b), certain technical amendments, unrelated to that section, which are also necessary to keep the Plan qualified. The latter amendments would have the effect of assuring that benefits are "definitely determinable" from the Plan document in accordance with Section 1.401-1(b)(1)(i) of the Income Tax Regulations and a relevant Internal Revenue Service ruling 2/ issued since the date of its previous determination letter in respect of the Staff Retirement Plan. In order to comply with the regulation as interpreted by the ruling, the actual interest rate and other relevant assumptions or factors are required to be inserted within the text of the Plan.

7. It is now proposed that the Pension Committee endorse the proposed amendments set out in Attachments I and II. Attachment II describes two consequential proposed amendments that the Administration Committee has approved. If approved by the Pension Committee at this time, these proposed amendments would be submitted to the Executive Board for its approval.

8. In any consideration of the proposed amendments, an important corollary should be borne in mind. A consequence of adopting a set of amendments that incorporates the limitations of IRC Section 415(b) is that prospectively the retirement benefits of certain members of the staff will be subject to an external ceiling. From a strictly legal standpoint, it would be possible to contemplate making no compensatory provision for participants, retired participants and their beneficiaries in respect of whom benefits in excess of the limitation mandated by IRC §415 had not yet accrued at the time of the adoption of the proposed amendments.

1/ The favorable determination letter extends to the amendment adopted on December 5, 1983, as well as to all other amendments to the Plan adopted since the date of the last determination letter in 1978. An extension of the period during which the proposed amendments may be adopted was obtained through July 17, 1984.

2/ Revenue Ruling 79-90.

Nevertheless, it would be inequitable and hence poor policy to impose such a ceiling on their expectations without making available some sort of compensation in respect of them. This is recognized in the applicable U.S. law which provides a mechanism to remove an inequity that observance of IRC Section 415(b) might otherwise create in respect of a qualified plan. This mechanism is to create a supplemental benefit plan, in addition to the Staff Retirement Plan, in order to provide benefits in excess of the limitations of IRC Section 415(b) to those staff members who would otherwise have become entitled to them. The concept is defined in ERISA Section 3(36):

> "The term 'excess benefit plan' means a plan maintained by an employer solely for the purpose of providing benefits for certain employees in excess of the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code of 1954 on plans to which that section applies, without regard to whether the plan is funded.***"

The IBRD has already adopted a plan to compensate its staff members who would be entitled after the amendment to a level of pension payments but for the incorporation within the IBRD Staff Retirement Plan of the limitations of IRC Section 415(b). Such compensation is to be made out of the IBRD administrative budget.

9. Several alternative types of supplemental benefit plans might be considered. 1/ Among them are the following:

(i) a fully funded plan to which contributions would be made by the Employer;

(ii) a plan implemented through the purchase of annuities, the payment of which might be guaranteed by the Employer;

(iii) a non-funded plan that would be payable out of the administrative budget.

10. The chief advantage of fully funding a supplemental benefits plan is the assurance that would be provided to participants and their beneficiaries through the irrevocable commitment of segregated funds by the Employer. This assurance underlies the Staff Retirement Plan, itself. Two other considerations, are however, appropriate. These are the tax implications to participants and the cost to the Employer. In what

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1/ It is assumed that, should any of these plans be adopted, the employee would continue to contribute to the SRP at the contribution rate then current. It follows that the employee would not be required to contribute, in addition, to the supplemental benefit plan.

follows, the different forms of supplemental benefits plans set out in paragraph 9 above will be evaluated in the light of these considerations.1/

11. If the supplemental benefits plan were established in the form of a funded, non-qualified plan, for non-U.S. staff members contributions made by the Employer would create no tax incident to them under U.S. law. This follows from Article IX, Section 9(b) of the Fund's Articles of Agreement, 2/ which has full force and effect in the United States. 3/ Should a non-U.S. staff member, for whom such a contribution had been made, retire in the United States, both the contribution of the Employer and any contribution of the retiree made while a staff member would be recoverable tax free from pension payments received from a funded supplemental benefits plan through the calculation of an appropriate tax exclusion ratio. In the calculation of this ratio, the Employer's contributions would be treated as the non-U.S. participant's own contributions because, in accordance with IRC §72(f)(2), "if such amounts had been paid directly to the [participant] at the time they were contributed, they would not have been includible in the gross income of the [participant]." This effect arises from the tax exemption accorded to salaries and emoluments paid by the Fund to its non-U.S. employees. 4/ The consequence would be that the non-U.S. participant who retires in the United States would be taxed only on that portion of the pension payment that is attributable to investment income in accordance with IRC §72(b). The amount of such taxable investment income would be kept to a minimum if the funding occurred immediately before retirement rather than sometime prior thereto.

12. While no taxable incident would be attributable under U.S. law to a non-U.S. staff member at the time a contribution was made by the Employer to fund a supplemental benefits plan, the reverse would be the case in respect of a U.S. staff member. Since a supplemental benefits plan would not be qualified, 5/ there would not be tax deferment in

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1/ The tax aspects will be considered in relation to U.S. tax law. It is understood that approximately two-thirds of current retirees and their beneficiaries under the Staff Retirement Plan have retired in the United States.

2/ This provision states:

> "No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to Executive Directors, Alternates, officers, or employees of the Fund who are not local citizens, local subjects, or other local nationals."

3/ See 22 U.S.C. §286h.

4/ See IRC §893 and §894.

5/ See IRC §415(g).

respect of the Employer's contribution. Under IRC §402(b) and §83, a U.S. staff member would incur income tax liability at the time that contributions were made to that plan on his behalf by the Employer. The additional tax burden thus imposed on him would be subject to tax reimbursement by the Employer under Section 14(b) of the Fund's By-Laws in the same manner as paid in respect of the tax paid on salaries. 1/ To the extent that he had been taxed on the Employer's contributions when these were made to the supplemental benefits plan, a U.S. participant would not be taxed again on distributions made under that plan following his retirement. 2/

13. In the discussion thus far, it has been assumed that contributions would be made by the Employer to a supplemental benefits plan prior to retirement by the staff member. If these contributions were made subsequent to his retirement, different tax consequences would follow. For both a U.S. retired participant and a non-U.S. participant who decides to retire in the United States, if contributions were made by the Employer to a plan subsequent to his retirement, then the amount of these contributions would be taxable in full at ordinary rates. This result would follow insofar as the non-U.S. participant would at the time of the contribution, no longer be within the protection accorded to staff members and others by Article IX, Section 9(b). Similarly, owing to his retired status at the time of the contribution, the U.S. participant would no longer fall within the ambit of those who qualify for tax reimbursement under Section 14(b) of the Fund's By-Laws.

14. The supplemental benefits plan might be established through the purchase of an annuity contract. 3/ In accordance with this approach, the Employer would purchase an annuity from an insurance company that would provide for periodic payments in the amount of the supplemental benefit needed to compensate for the limitation imposed by IRC §415. The annuity

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1/ The first paragraph of Section 14(b) provides:

> "(b) Pending the necessary action by members to exempt from national taxation salaries and allowances paid out of the budget of the Fund, the Governors and the Executive Directors, and their Alternates, the Managing Director, and staff members and other employees of the Fund, except those whose employment contracts state otherwise, shall receive from the Fund a tax allowance that the Executive Board determines to be reasonably related to the taxes paid by them on such salaries and allowances."

2/ See IRC §72(f)(1).

3/ "Insurance contracts are one means of funding excess benefits.***" Haugh, "A Look at TEFRA: Decisions and Opportunities," Bank Administration Institute (March 1983).

contract would include a cost of living feature that would augment payments to the annuitants in order to parallel pension supplements that take effect under Section 4.11 of the Staff Retirement Plan. Upon the purchase of such an annuity, the supplemental benefits plan would, in effect, be funded. If further assurance were deemed appropriate in order to protect against the possible insolvency of the issuer of the annuity or its inability for another reason to make transfers to the annuitant, a guaranty by the Employer might be considered.

15. If the supplemental benefits plan were established through the purchase of an annuity contract, for a non-U.S. staff member the Employer's payment of the purchase price prior to retirement would create no tax incident under U.S. law. This follows from Article IX, Section 9(b) of the Fund's Articles of Agreement. Annuity payments following retirement of the staff member in the United States would then be subject to IRC §72(b), under which the retiree would not be taxed on that portion of the annuity payments which represented the Employer's purchase price. In contrast, under IRC §403(c) and §83 a U.S. staff member would incur tax liability at the time that the Employer paid the purchase price on his behalf for the annuity contract. Assuming that the contract was purchased prior to his retirement, the additional tax burden would be subject to reimbursement by the Employer under Section 14(b) of the Fund's By-Laws. Following retirement, he would pay no tax on annuity payments corresponding to the amount of the purchase price that was already included within his gross income at the time that the contract was purchased. If the purchase price were paid by the Employer subsequent to retirement, then, for the reasons examined in paragraph 13 above, both a U.S. retired participant and a non-U.S. participant who decides to retire in the United States would be taxable at ordinary rates on the amount of the purchase price. The former would not be entitled to reimbursement under Section 14(b) of the Fund's By-Laws. The latter would not come within the ambit of Article IX, Section 9(b) of the Fund's Articles of Agreement.

16. The third alternative that might be considered is for the Employer to pay from its administrative budget supplemental benefits to those who would have been entitled to their receipt but for the limitation of IRC §415 as reflected in the proposed amendments. Inasmuch as this alternative would be unfunded, in contrast to the other two approaches it might not offer the same degree of assurance. On the other hand, it would permit the Employer the use of amounts that would otherwise have been committed until they were actually paid out as supplemental benefits. As noted above, the IBRD has chosen this alternative.

17. Under the third approach, there would be no contribution by the Employer that might create a taxable incident prior to the actual payment of the benefits to retired staff participants and their beneficiaries. Both the U.S. retired participant and the non-U.S. participant who chooses to retire in the United States would be taxed fully on benefits received from the unfunded plan. The tax would be calculated at ordinary rates without the calculation of an excludible portion attributable to an investment in the contract under IRC §72.

18. It should be noted from the above considerations that none of the three approaches examined yields identical tax treatment accorded to payments made under the Staff Retirement Plan. Under the first and second alternatives the tax consequences would depend on whether the Fund's contribution or payment of the purchase price, as the case may be, occurs prior or subsequent to retirement. If it occurs before retirement, then a more favorable tax outcome may be expected than under the Staff Retirement Plan. 1/ If it occurs after retirement, then a less favorable tax outcome may be expected. The third approach produces a significantly different tax effect on both U.S. retired participants and non-U.S. participants who choose to retire in the U.S. insofar as, unlike payments made from the Staff Retirement Plan, payments made from an unfunded plan will be fully taxable upon receipt.

19. With the exception of the necessary tax reimbursements in respect of U.S. staff members under the first and second alternatives if the described employer payments under those alternatives are made before retirement, there would be no additional cost over time to the Employer under any of the three alternatives. 2/ This follows from the fact that benefits under the Staff Retirement Plan would not be increased under any of the three alternatives, but would merely be paid from two sources instead of one. 3/

1/ The more favorable outcome to the non-U.S. participant may be contemplated as a consequence of the shorter period (in comparison to the SRP) during which funding of a supplemental benefit plan is likely to take place. The effect of this is to raise the applicable exclusion ratio. For the U.S. participant, the more favorable outcome would result from the tax reimbursement required by Section 14(b) of the By-Laws.

2/ A qualification perhaps should be made to this statement in respect of the second alternative. It can be expected that an insurance or annuity company will charge a fee for its expenses in issuing an annuity contract.

3/ The incidence of employer contributions would, however, be affected in that, considering the first and second alternatives, the funding of a plan or the purchase of an annuity would imply an initial outlay in lieu of the continuing expenditures associated with the third alternative. It should be noted that, for all three alternatives, there would be offsetting experience gains in the SRP, since smaller pensions would be payable from that source.

20. A comparison of the tax consequences under the first and second alternatives, if funded after retirement, vis-à-vis the third alternative would depend on the tax bracket to which the retired staff member was relegated in consequence of the payments under these two alternatives as compared with the tax that would be payable over the years on the annual payments received under the third alternative.

21. In view of the considerations discussed above, it is proposed that the Pension Committee recommend to the Employer the establishment of a supplemental benefit plan to be paid out of the administrative budget in order to compensate for payments that would have been made from the Staff Retirement Plan to retired participants and their beneficiaries but for the incorporation of the limitations of IRC §415 through the adoption of the proposed amendments to that Plan which are set out in the Attachments to this paper.

22. It should be noted that the tax consequences resulting from such a supplemental benefit plan relative to those which would have resulted had the equivalent payments be made under the SRP are comparatively more adverse in respect of the non-U.S. participant who retires in the United States than in respect of his U.S. counterpart. Accordingly, as an optional feature of this plan, the Pension Committee might wish to consider permitting a non-U.S. participant to elect, prior to retirement, the funding of benefits anticipated from the supplemental benefit plan by the Employer. While this feature would create no additional cost to the Employer in excess of that which would have been expended over the years through the payment of unfunded amounts, it would prevent the adverse tax implications for those persons eligible to make the election who choose to retire in the U.S. It should be noted that, according to the advice of the consulting actuaries, the establishment of the supplemental benefit plan in the form proposed would not add to the cost already undertaken by the Employer of funding the SRP. This is because the cost of funding the SRP would be correspondingly reduced taking into consideration the smaller pension payments to be made from it to those who would receive payments from the supplemental benefit plan.

Proposed Amendments

Article 1: Definitions

Section 1.1

(v) "Regular interest" means interest at the rate or rates set out in Schedule C ~~from time to time determined by the Pension Committee, as provided in Section 7.1(f)~~.
(Amended August 14, 1967, effective July 1, 1967.)

Explanation: This provision would be modified so as to provide that the interest rate or rates referred to therein shall be specified in a schedule to the Plan. Any reference to Section 7.1(f) of the Plan would be deleted since this provision would, itself, be deleted under the proposed amendments. The amendment is introduced in order to comply with the requirements of IRS Revenue Ruling 79-90 taken pursuant to Section 1.401(b)(1)(i) of the Income Tax Regulations. This regulation, adopted in accordance with Section 401 of the Internal Revenue Code as amended by Employee Retirement Income Security Act of 1974 (ERISA), specifies that a pension plan must, in order to remain qualified, be established and maintained by an employer so as to provide "definitely determinable" benefits to employees after retirement. Revenue Ruling 79-90 provides that whenever the amount of a benefit is to be determined by some procedure which requires the use of actuarial assumptions, such as interest and mortality, the assumptions to be used must be specified within the text of the Plan in a manner precluding the employer's discretion.

It follows that the Plan must be amended, if it is to remain qualified, so as to specify in its text the interest rate or rates. Under the existing procedure set out in Section 7.1(f), the Pension Committee determines these rates from time to time. Since this is not compatible with the requirement that the actuarial assumptions be specified within the Plan in a way that precludes the employer's discretion, this power must be discontinued. Under the proposed amendments, the rates as specified in Schedule C would not be subject to modification unless Schedule C itself (which forms a part of the Plan) is amended by the Executive Board. Presumably, the latter would continue to act on the advice of the Pension Committee.

~~(x) "Actuarial equivalent" means a benefit of equivalent value when computed at regular interest on the basis of the tables last adopted by the Pension Committee.~~

Explanation: All existing references in the Plan to "actuarial equivalent" must be omitted in order to comply with the requirement of Revenue Ruling 79-90 that the actuarial assumptions be specified in the Plan. Consequently the definition of "actuarial equivalent" becomes obsolete and should therefore be deleted.

x
~~(y)~~ "Year" means any 12 consecutive months. When any fraction of a year shall be involved in computing eligible service each month or fraction thereof in excess of 15 days shall be considered one-twelfth of a year and any portion thereof amounting to 15 days or less shall be disregarded.
(Amended August 14, 1967, effective July 1, 1967.)

Explanation: This is a drafting change consequential to the amendment to Section 1.1(x).

y
(~~z~~) The masculine pronoun wherever used herein includes the feminine, unless the context clearly otherwise requires.

Explanation: This is a drafting change consequential to the amendment to Section 1.1(x).

z
(~~aa~~) The singular person wherever used herein includes the plural unless the context clearly otherwise requires.
(Adopted August 14, 1967, effective July 1, 1967.)

Explanation: This is a drafting change consequential to the amendment to Section 1.1(x).

Article 4: Retirement and Benefits

Section 4.1 Normal Retirement

(d) Pensions payable in accordance with this Section 4.1 shall be subject to the provisions of Section 4.12.

Explanation: The purpose of this new subsection is to indicate that the benefits payable under this Section are subject to the maximum limitations imposed by the law. This is achieved by incorporating a reference to Section 4.12 of the Plan which specifies these limitations.

Section 4.2 Early Retirement

(c) Pensions payable in accordance with this Section 4.2 shall be subject to the provisions of Section 4.12.

Explanation: See the explanation provided for the amendment to Section 4.1(d).

Section 4.4 Death Benefits

(b) Upon request of a participant or a retired participant, or of a beneficiary at the time entitled to receive immediate payment in a lump sum of any benefit provided for in this Section 4.4 and to whom no part of such benefit has been paid, the Administration Committee may, in its discretion, make payment of all or any part of such benefit in the form of an annuity ~~of equivalent actuarial value~~ payable, either as an annuity certain for a fixed period of years or as a refund life annuity with the return of such lump sum guaranteed, as shall be specified in such request. The amount of any such annuity shall be determined using the actuarial assumptions of paragraph 1 of Schedule D.

Explanation: To comply with Revenue Ruling 79-90 the reference to an "equivalent actuarial value" in this provision would be replaced by the indication that the amount of the annuity to be paid under this subsection shall be determined by using the assumptions specified in Schedule D of the Plan.

Section 4.6 Reduced Pension with Pension to Survivor

(a) Any participant or retired participant may, by written notice received by the Administration Committee before his pension becomes effective, elect to convert the pension otherwise payable to him (excluding any portion of his pension commuted into a lump sum under Section 15.1) into two pensions ~~having a combined actuarial value equivalent to such pension~~, in accordance with one of the options named below. If such notice is received by the Administration Committee at least 30 days prior to the date his pension becomes effective the election of the option hereunder by him shall become effective on the date his pension becomes effective. If such notice is received by the Administration Committee less than 30 days before the date his pension becomes effective, the election of the option hereunder shall become effective 30 days after the date such notice is received. The amounts of the two pensions after conversion shall be determined using the actuarial assumptions in paragraph 2 of Schedule D.

Explanation: See explanation provided for the amendment to Section 4.4(b).

Section 4.6 Reduced Pension with Pension to Survivor

(c)

2. by a written and witnessed amendment filed with the Administration Committee, effective upon such filing, such retired participant may, at any time before his pension becomes effective, change the date specified by him in said statement to a date (not less than 30 days after said filing) which is earlier but not later, than the date so specified, in which case such earlier date shall thenceforth be deemed to be the date specified in said statement ~~and an appropriate actuarial reduction shall be made in the pensions elected therein~~; and

3. if such retired participant shall die before his pension becomes effective the pension of the survivor designated by him shall, if such survivor is then living, become effective, ~~after appropriate actuarial reduction,~~ upon his death regardless of the date specified by him in said statement.

(Adopted April 17, 1959; amended November 20, 1974, effective May 1, 1974.)

Explanation: The references in this subsection to "appropriate actuarial reduction" are deleted in order to conform to the requirements of Revenue Ruling 79-90. It is not necessary to indicate here the actuarial assumptions which are to be used to calculate the appropriate actuarial reductions, since these assumptions are already specified, by reference, in Section 4.6(a). Thus this modification does not affect the existing rule that an actuarial reduction must take place in the circumstances described in subsection 4.6(c).

Section 4.11 Pension Supplements

(i) Any amounts, payable under this Section shall, when added to any pension payable in accordance with Section 4.1 or Section 4.2, be subject to the provisions of Section 4.12.

Explanation: The rationale of this new subsection is to submit the aggregate amount of a pension payable either under Section 4.1 or under Section 4.2 and any pension supplement payable under this Section to the limitations imposed by the law. As in Sections 4.1 and 4.2, this is achieved by incorporating a reference to new Section 4.12 which specifies these limitations.

Section ~~4.12~~ 4.13 Limitation on Benefits Payable in the Form of an Annuity

Explanation: Present Section 4.12 would be redesignated as Section 4.13 in order to accommodate the introduction of new Section 4.12.

Section 4.12 Maximum Pensions

Explanation: The purpose of introducing this new section is to comply with the requirement of Section 415 of the Internal Revenue Code that certain limitations be specified in the Plan. Inasmuch as these limits, as set out in IRC Section 415(b), were modified by the Tax Equity and Fiscal Responsibility Act 1982 (TEFRA), the proposed amendments would make the Plan conform to the new limitations as of May 1, 1983 (which is the date by which the new limitations must take effect).1/ The proposed amendments also take into consideration the Revenue Ruling 79-90 requirement that relevant actuarial assumptions be specified in the Plan.

As modified by TEFRA, IRC Section 415 requires that three types of limitations be introduced into the Staff Retirement Plan. According to

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1/ By adopting the proposed amendments as they apply in respect of plan years of the SRP, the Fund is electing, in accordance with Section 1.415-2 of the Income Tax Regulations, that the limitation years referred to in the proposed amendments shall be plan years rather than calendar years.

Section 1.401(a)(1) of the Income Tax Regulations these limitations must be characterized by sufficient specificity so as to be definitely determinable from the text of the Plan.

The first limitation is the defined benefit limitation which is dealt with in subsections 4.12(a) - 4.12(e) of the proposed amendments. These provisions would limit the portion of the benefit derived from employer contributions. The employer-derived pension is limited to the lesser of: 100% of highest average gross remuneration or $90,000. Since under the Staff Retirement Plan, the maximum pension that can be paid is 70 per cent of one's highest average gross remuneration, it is the dollar figure that is relevant. Under a bill that is expected soon to become law, the $90,000 figure is scheduled to increase in 1988 and thereafter so as to reflect changes in the cost of living. 1/ The defined benefit limitation is apt to affect only pensions payable in respect of some senior staff members with long service. [See Example 1 of the Appendix for an illustration of the defined benefit limitation as regards a normal (age 65) retirement.]

The second limitation that must be introduced into the Staff Retirement Plan is the defined contribution limitation. Although the Plan is not a defined contribution plan, the law requires that employee contributions in excess of 6% of compensation (or 1/2 of employee contributions if employee contributions exceed 12% of compensation) be limited. This limitation is reflected in subsection 4.12(f)(i) of the

1/ TEFRA had initially set this date as 1986.

proposed amendments. It provides that employee contributions in excess of 6% should not exceed the lesser of: 25% of gross remuneration or $30,000. Under a bill that is expected soon to become law, the $30,000 is scheduled to increase in 1988 and thereafter so as to reflect changes in the cost of living. 1/ Since mandatory employee contributions under the Staff Retirement Plan currently equal 7% of remuneration (and the voluntary contribution feature of the Plan is being phased out), the test based on 1/2 of employee contributions is not at this time relevant. The alternative test (25% of gross remuneration or $30,000) is unlikely ever to be exceeded under the current employee contribution rate. This may be appreciated from the following considerations. Assuming the current employee contribution rate, a participant's gross remuneration would need to exceed $3,000,000 in order for the defined contribution limit to come into play. If mandatory employee contributions were increased to 7 1/2%, the gross remuneration of a participant would have to exceed $2,000,000 in order for the limit to have impact. [See Example 2 of the Appendix for an illustration of the the defined contribution limitation.]

<u>The third limitation is the combined benefit limitation</u>. The purpose of this limitation is to ensure that employees of those employers that sponsor (i) both defined benefit and defined contribution plans or (ii) defined benefit plans that contain an employee contribution feature cannot receive in excess of a total maximum by taking advantage of two features subject to separate limitations. The Staff Retirement Plan contains the feature described in (ii) above. Prior to TEFRA, if one of the limitations were reached, 40% of the other type of limitation would

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1/ TEFRA had initially set this date as 1986.

still be available. TEFRA reduced the 40% to 25% with regard to persons who reach the dollar maximum (rather than the percentage maximum) of the limitations. The combined limitation is dealt with in subsection 4.12(f) (ii) of the proposed amendments. Calculation of the combined limitation requires the development of two fractions, one representing the portion of the defined benefit limitation achieved in any year and the other representing the portion of the defined contribution limitation achieved in the same year. The sum of the two fractions is limited to 1.0. The numerator of the defined benefit fraction focuses on the projected employer derived-benefit payable at age 65, based on current gross remuneration and projected service. This amount is limited to \$90,000 and the maximum defined benefit fraction is therefore .8 ($\frac{\$90,000}{1.25 \times \$90,000}$). Thus, the combined limit will not be exceeded unless the defined contribution fraction is in excess of .2. Based on current employee contribution rates, this fraction is not expected to exceed .2. Development of the defined contribution fraction requires reconstructing the annual history of employee contributions in excess of 6%. [See Example 3 of the Appendix for an illustration of combined benefit limitation and the development of the defined contribution fraction.]

(a) The portion of a participant's pension provided by the participant's contributions shall be denoted the participant-derived annual pension and shall be equal to the participant's accumulated contributions as of the effective date of his pension multiplied by a conversion factor based on his age on the anniversary of his birth coincident with or next following the effective date of his pension. The conversion factor shall be 8% if the participant's age is between 55 and 59 on the effective date of his pension, 9% if such age is between 60 and 63, 10% if such age is between 64 and 66, 11% if such age is between 67 and 68, 12% if such age is between ages 69 and 71, 13% if such age is between 72 and 73, 14% if such age is between 74 and 75, and 15% if such age is 76 and above.

Explanation: This subsection defines the participant-derived annual pension and specifies the factors to be used in connection with it, in order to conform with Revenue Ruling 79-90. 1/

(b) The portion of a participant's pension provided by the Employer's contribution shall be denoted the Employer-derived annual pension and shall be equal to the excess, if any, of the total annual pension over the participant-derived annual pension as computed in accordance with subsection (a).

Explanation: This subsection defines the Employer-derived annual pension, which is subject to the limitations imposed by the law.

(c) (i) Effective May 1, 1983, the maximum Employer-derived annual pension payable under Section 4.1 or 4.2, as adjusted by cost-of-living increases under Article 4.11, shall not be greater than the lesser of (1) the participant's highest average gross remuneration or (2) $90,000. If the participant has completed less than 10 years of eligible service, such maximum pension shall be reduced by multiplying it by the ratio which the number of months of his eligible service bears to 120. If a participant elects under Section 4.6 to reduce his pension payable under Section 4.1 or 4.2 with the participant's spouse nominated by him, the reduced pension shall be subject to such maximum limitation. If a participant elects under Section 4.6 to reduce his pension payable under Section 4.1 or 4.2 with a person other than the participant's spouse nominated by him, or if his pension payable under Section 4.1 or 4.2 is reduced pursuant to an election to commute a portion of it into a lump sum payment under Article 15, such pension shall be subject to such maximum limitation before such reduction.

Explanation: This paragraph sets out the limitations to the Employer-derived pension and provides for adjustment of the limitation when the participant has completed less than 10 years of eligible service. It further indicates that when a participant has elected to reduce his

1/ It should be noted that, under this subsection, it is understood that a conversion factor of 8 per cent would apply in respect of any participant who is less than 60 years old, a conversion factor of 9 per cent would apply in respect of any participant who is at least 60 years old but not yet 64 years old, etc.

pension, the amount which is subject to the limitations is the amount of the pension after reduction where the nominated person is the spouse, and the amount of the pension before reduction where the designated person is not the participant's spouse. This differentiation, favorable to the participant's spouse, follows from the fact that the law does not subject qualified joint and survivor annuities to the limitations. As for commutation, the amount subject to the limitations is the amount of the pension before commutation.

(ii) If the participant's age on the anniversary of his birth coincident with or next following the effective date of his pension is less than 62 or more than 65, the limitation in (2) of paragraph (i) of this subsection (c) shall be adjusted in accordance with paragraph 3 of Schedule D, but in no event shall the limitation as adjusted be less than $75,000.

Explanation: This is to accord with Section 415(b)(2) of the Internal Revenue Code as amended successively by ERISA and TEFRA. It provides that the dollar limitation must be adjusted if retirement takes place between age 55 and 62 or after age 65, and it specifies by reference the actuarial factors to be used in connection with this, as required under Revenue Ruling 79-90.

(iii) The maximum limitations as determined pursuant to paragraph (i) shall be adjusted automatically to the extent authorized under applicable governmental regulations.

Explanation: This is to ensure that the dollar limitation is automatically increased if and when plans are allowed to adjust it to reflect cost of living increases. Under TEFRA, cost of living adjustments may be authorized by the Secretary of Labor, provided that he may make no such adjustment with respect to any year beginning after December 31, 1982 and before January 1, 1986. This date is to be postponed to January 1, 1988 by a bill that is soon to become law.

(d) The maximum limitations as determined pursuant to paragraph (i) of subsection (c) shall be in effect for the period from January 1, 1975 through April 30, 1983, provided that the limitation in (2) of said paragraph shall be $75,000, as adjusted automatically to the extent authorized under applicable governmental regulations.

Explanation: This provision gives effect to the ERISA related limitations retroactively from 1975 until the date when the more strict TEFRA limitations must enter into force, i.e. May 1, 1983.

(e) Notwithstanding the provisions of subsection (c), but subject to the provisions of subsection (d), a participant's annual pension payable under the Plan shall in no event be less than the benefit which the participant had accrued under the Plan as of April 30, 1983; provided that in determining such benefit, no changes in the provisions of the Plan on or after July 1, 1982 shall be taken into account.

Explanation: The purpose of this subsection is to preserve the right of participants to benefits accrued by the beginning of Plan year 1983, to the extent authorized in Section 235(g)(4) of TEFRA, even if they exceed the TEFRA limitations described in subsection (c).

(f) (i) A participant's contribution under the Plan for any plan year commencing on or after May 1, 1983 in excess of 6% of his gross remuneration for the year shall not be greater than the lesser of (1) 25% of the participant's gross remuneration for the year or (2) $30,000, such amount to be adjusted automatically to the extent authorized under applicable governmental regulations. These maximum limitations shall be in effect for the period from January 1, 1975 through April 30, 1983, provided that the limitation in (2) shall be $25,000. Such maximum limitations in effect for such period shall be adjusted automatically to the extent authorized under applicable governmental regulations.

(ii) In the case of any participant as to whom the sum of the defined benefit plan fraction and the defined contribution plan fraction for any year exceeds 1.0 (prior to the application of this paragraph (ii)), the Employer-derived annual pension shall be reduced to the extent required to make such sum 1.0. A participant's defined benefit plan fraction for any year is a fraction the numerator of which is the projected Employer-derived annual pension under the Plan (determined as of the close of the year) and the denominator of which is the lesser of (1) the product of 1.4 multiplied by the maximum limitation in (1) of paragraph (c)(i) or (2) the product of 1.25 multiplied by the maximum limitation in (2) of paragraph (c)(i). A participant's defined contribution plan fraction for any year is a fraction the numerator of which is the sum of the participant's contributions in excess of six percent of his gross remuneration for that year and each prior year of service under the Plan as of the close of the year, and the denominator of which is the sum of the lesser of the following amounts determined for such year and each prior year of service: (1) the product of 1.4 multiplied by the maximum limitation in (1) of paragraph (f)(i) with respect to such participant for such year or (2) the product of 1.25 multiplied by the maximum limitation in (2) of paragraph (f)(i) applicable to the year in question.

Explanation: Section 1.415.3(d)(1) of the Income Tax Regulations sets out a requirement for defined benefit plans like the Staff Retirement Plan which provide for mandatory contributions by employees. In accordance with this requirement such plans must specify maximum limitations on contributions that normally apply to defined contribution plans since the contribution feature is treated as a separate defined contribution plan. The complicated technical phrasing of this amendment substantially reflects the text of the Internal Revenue Code (IRC Section 415(e)) as amended by ERISA and TEFRA legislation, as well as the regulations issued thereunder to date. Under current projections it is not believed that this section is likely to affect participants' benefits under the Plan.

Article 7: Administration of Plan

Section 7.1 Pension Committee

~~(f) The Pension Committee shall adopt from time to time, upon recommendation of the actuary, tables for use in all actuarial and other calculations required in connection with the Plan. It shall establish from time to time the rate or rates of regular interest, to be compounded annually as determined by the Administration Committee, which shall be used in all actuarial and other calculations required in connection with the Plan. The Pension Committee shall have power to make such rules as it shall deem necessary or desirable with respect to the method or methods of computing interest hereunder, including, without limitation, the power to determine with respect to any type or types of contributions or payments that interest shall be credited or charged in any year or part of a year only on amounts paid or payable, credited or charged, as of any previous day or days in such year or as of April 30th of the preceding year. (Amended April 27, 1956, effective May 1, 1956; April 17, 1959; and August 14, 1967, effective July 1, 1967.)~~

Explanation: Revenue Ruling 79-90 requires that the assumptions used in the determination of benefits be specified within the text of the Plan. This is complied with by incorporating these assumptions in Schedules to the Plan. Henceforth any modification to these assumptions would amount to an amendment to the Plan itself, a power which is vested in the Executive Board. Present Section 7.1(f) is consequently deleted in order to make clear that this power is transferred to the Executive Board. Presumably the latter would continue to act on the advice of the Pension Committee.

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~~(g)~~ The Pension Committee shall make periodic valuations of the fixed and contingent assets and liabilities of the Plan not less often than once every three years, and shall from time to time review the costs and benefits of the Plan and recommend to the Employer any changes in the contributions and benefits provided for therein which they shall deem desirable. The Pension Committee shall determine from time to time, upon recommendation of the actuary, the actuarial assumptions and methods used in these valuations.

Explanation: The last sentence is added to assure the retention by the Pension Committee of a power which is unaffected by Revenue Ruling 79-90. The Ruling requires the specification in the Plan of the assumptions used in the determination of benefits. The assumptions used in the periodic valuations do not fall within that category. Accordingly, the amendment makes it clear that the Pension Committee shall retain the authority that it had under Section 7.1(f) before amendment to determine these assumptions from time to time upon recommendation of the actuary. A consequential drafting change is made to accord with the deletions of subsection (f).

Article 15: Commutation of Pension Payments

Section 15.1 Application

(a) Any participant or retired participant entitled to receive a normal, early retirement or deferred pension may, by notice in writing filed with the Administration Committee before his pension becomes effective, elect to commute a stated portion, not exceeding one-third, of his pension plus accumulated pension supplements into a lump sum payment ~~actuarially equivalent to such portion~~.

(b) Any participant or retired participant entitled to receive a disabililty pension effective at or after 55 years of age may, by notice filed in writing with the Administration Committee before his pension becomes effective and subject to the approval of the Administration Committee, elect to commute a stated portion, not exceeding one-third, of the early retirement pension plus accumulated pension supplements he would have been entitled to receive if he had been retired on an early retirement pension instead of a disability pension, into a lump sum payment ~~actuarially equivalent to such portion~~.

(e) The amount of the lump sum in subsection (a) or (b) above shall be determined using the relevant factor in the table in paragraph 4 of Schedule D.

Explanation: These amendments are required so as to comply with the requirements in Revenue Ruling 79-90 as already described.

Schedule B

(10) Optional Additional Contributions by Participants

Optional additional contributions by participants made or arranged for prior to March 31, 1972 shall continue to be governed by the provisions of the plan as amended through April 30, 1974. The amounts of any annuity payable in accordance with this Section shall be determined using the actuarial assumptions of paragraph 1 of Schedule D.

Explanation: This is to conform to the requirement of Revenue Ruling 79-90 that the actuarial assumptions be specified within the Plan.

~~Appendix~~

Schedule C

Resolution on crediting and charging of interest of participants' contributions to the retirement fund.

Explanation: This is to indicate that the Resolution as now existing becomes part of the Plan and thus that the rates therein are specified within the text of the Plan as required by Revenue Ruling 79-90.

Schedule D: Actuarial Assumptions and Factors Used to Determine Amounts of Benefits

1. The Actuarial Assumptions used to determine the amounts of the annuities referred to in Section 4.4(b) and Schedule B(10) are as follows:

a) Interest Rate: 6% compounded annually

b) Mortality Rates: 1960 United Nations Mortality Table: Unisex mortality rate at each age equals 70% of male rate plus 30% of the female rate.

Explanation: See explanation given with respect to the amendment to Section 4.4(b).

2. The actuarial assumptions used to determine the amounts of the reduced pensions in Section 4.6 are the same as in paragraph 1 above, but the joint life annuity is adjusted 5 per cent for conservatism.

Explanation: See explanation given with respect to the amendment to Section 4.6.

3. Benefit Limitation Adjustment Factors
(to be used in conjunction with Section 4.12(c)(ii)

The factors included in this table shall be multiplied by the maximum limitations in Section 4.12 in cases where the retirement pension becomes effective before the participant's age 62 or after his age 65. For the purposes of this table, age is based on the participant's age on the anniversary of his birthdate coincident with or next following the effective date of his pension.

Age	Factor*
56	.65
57	.69
58	.74
59	.80
60	.86
61	.93
66	1.10
67	1.22
68	1.36
69	1.51
70	1.69
71	1.91
72	2.15
73	2.45
74	2.80
75	3.22

*The interest rate used in the development of these factors is 5%.

Explanation: See explanation provided with respect to new Section 4.12(c)(ii).

4. Commutation Factors
(to be used in conjunction with Article 15)

The commutation factors included in this table represent the amount of lump sum payable in U.S. dollars for each U.S. dollar of annual pension commuted. Age is based on the nearest age of the participant as of the effective date of the pension.

Age	Commutation Factor
55	$12.198
56	11.979
57	11.752
58	11.520
59	11.281
60	11.035
61	10.781
62	10.521
63	10.254
64	9.979
65	9.696
66	9.405
67	9.107
68	8.802
69	8.491
70	8.177
71	7.861
72	7.546
73	7.233
74	6.923
75	6.618

Explanation: See explanation provided with respect to the amendment to Section 15.1.

The following examples are illustrative of the principles that are presently understood to underly calculations in respect of the application of IRC §415 through the proposed SRP Section 4.12. They were prepared with the assistance of the consulting actuary. Actual calculations may vary according to circumstances.

Example 1 (illustrative of Section 4.12(c)(i) of the proposed amendments):

Defined Benefit Limitation (based on maximum of $90,000):

Normal retirement at age 65 of married participant having highest average gross remuneration of $171,429. Annual benefit before commuting or election of Section 4.6 option equals 70% of highest average gross remuneration, or $120,000 per year. Assume accumulated employee contributions of $180,000. Therefore, employee-derived benefit equals $180,000 x .10* = $18,000 and employer-derived benefit equals $102,000.

a. Assume no commutation or Section 4.6 election
   Maximum employer-derived benefit equals $90,000.
   Pension to employee after Section 415 limitation equals $90,000 + $18,000 = $108,000.
   Required reduction of annual pay-out equals $12,000 ($120,000-$108,000).
   Pension to spouse (Section 4.9) = 1/2 ($120,000) = $60,000.

b. Assume 1/3 of pension is commuted
   Maximum employer-derived benefit is the same as in a.
   Amount of commutation $36,000 (1/3 x $108,000).
   Pension to employee after Section 415 limitation and commutation equals $72,000 (2/3 x $108,000).
   Pension to spouse (Section 4.9) = $60,000 (unaffected by commutation).

c. Assume Section 4.6 option is elected with spouse as beneficiary and election is such that, since Section 415 limitation applies after reduction rather than before, 100% of reduced benefit is payable when both Section 4.9 and Section 4.6 are considered. Assume a .88 reduction factor** applies under Section 4.6, so that reduced benefit after reduction for Section 4.6 equals .88 x $120,000 = $105,600.

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*This factor is prescribed in SRP Section 4.12(a).

**This reduction factor was chosen arbitrarily in order to produce the same pension payout to the participant and, after his death, to his spouse.

Employee-derived benefit equals $18,000.
Employer-derived benefit after reduction for Section 4.6 equals $87,600 ($105,600-$18,000).
Therefore, Section 415 limit ($90,000) is not exceeded by the employer-derived benefit ($87,600).
Hence the benefit to the employee equals $105,600 and $105,600 continues after death to the spouse.

d. Same as (c) except beneficiary is not spouse. Assume a .77 reduction factor* applies.
   Pension to employee after Section 415 limitation equals .77 x $108,000 = $83,160, which continues after death to the non-spouse beneficiary.
   Pension to the spouse (Section 4.9) equals $60,000.

Comment: In example a it may be seen that the defined benefit limitation requires a reduction in the annual payout of a participant's pension. Example b shows that commutation of one's pension in no way affects the defined benefit limitation. Example c shows that reducing one's pension in favor of one's spouse may bring its amount below the limitation. Example d shows that reducing one's pension in favor of someone other than one's spouse does not operate to bring one's pension below the limitation.

Example 2 (illustrative of Section 4.12(f)(i) of the proposed amendments):

Defined Contribution Limitation (based on $30,000 maximum):

a. Gross remuneration equals $250,000
   Current mandatory employee contribution rate of 7% of gross remuneration. Contributions in excess of 6% of gross remuneration equal .01 x $250,000 = $2,500.
   Limitation ($30,000) is not exceeded.

b. Gross remuneration equals $250,000 and mandatory contribution rate increased to 9% of gross remuneration. Contributions in excess of 6% of gross remuneration equal .03 x $250,000 = $7,500. Limitation ($30,000) is not exceeded.

Comment: In both example a and example b it may be seen that the defined contribution limitation is not exceeded insofar as the required calculation produces amounts substantially less than the $30,000 maximum. This is true if the current employee contribution rate continues as in example a as well as if that rate is increased substantially as in example b.

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*This reduction factor was chosen arbitrarily in order to produce the same pension payout to the participant and, after his death, his non-spouse beneficiary.

Example 3 (illustrative of Section 4.12(f)(ii) of the proposed amendments):

Combined Benefit Limitation

Defined Contribution Fraction (Defined contribution fraction is based upon maximum limitations (adjusted for cost of living increases) applicable to given years, as follows: a $30,000 maximum for 1983 and 1984, a $25,000 maximum for 1975 and earlier, and maximums of $26,825 for 1976, $28,175 for 1977, $30,050 for 1978, $32,700 for 1979, $36,875 for 1980, $41,500 for 1981 and $45,475 for 1982):

a. Participant aged 40 with 8 years of service, gross remuneration equal to $300,000 and accumulated contributions over 6% for 1977-1984 (without interest) equal to $18,571. (This is based on the actual contribution rate of 7% for this period).

   Defined contribution fraction equals the sum of the employee contributions for each year in excess of 6% of gross remuneration divided by the sum of the lesser of 140% x 25% x gross remuneration (calculated for each year) and 125% x the defined contribution maximum (calculated for each year). The defined contribution fraction equals:

$$\frac{\$18{,}571}{1.25 \times (\$30{,}000 + \$30{,}000 + \$45{,}475 + \$41{,}500 + \$36{,}875 + \$32{,}700 + \$30{,}050 + \$28{,}175)} = \frac{18{,}571}{343{,}469} = .054$$

b. New entrant aged 30 with gross remuneration equal to $250,000 and annual employee contribution equal to $17,500. (This assumes that the current 7% contribution rate applies):

   Defined contribution fraction equals:

$$\frac{.01 \times \$250{,}000}{1.25 \times \$30{,}000} = .067$$

c. Participant aged 40 with 8 years of service, gross remuneration equal to $300,000 and accumulated contributions over 6% for 1977-1984 (without interest) equal to $55,713. This assumes that a 9% contribution rate was effective during this period.

   Defined contribution fraction equals:

$$\frac{55{,}713}{343{,}469} = .162$$

d. New entrant aged 30 with gross remuneration equal to \$250,000 and annual employee contribution equal to \$22,500. This assumes a 9% contribution rate.

Defined contribution fraction equals:

$$\frac{.03 \times \$250,000}{1.25 \times \$30,000} = .20$$

Comment: *As noted in the explanation to this proposed limitation, the* maximum defined benefit fraction is limited to .8. Thus, the combined limit will not be exceeded unless the defined contribution fraction is in excess of .2. In both example a and example b it may be seen that the defined contribution fraction is substantially less than .2. Since this is the case, it may be appreciated that, under the current employee contribution rate, the combined benefit limitation would not be exceeded. *If the contribution rate were raised from 7% to 9%, then an inspection of* examples c and d indicates the assumptions that would be necessary in order to approach the limitation.

Office Memorandum

ATTACHMENT II

To: Chairman, Pension Committee
Staff Retirement Plan

Date: June 28, 1984

From: Chairman, Administration Committee
Staff Retirement Plan

Subject: Staff Retirement Plan: Proposed Amendments

Two additional consequential amendments to the Staff Retirement Plan have been suggested as a result of ongoing studies in the application of proposed amendments which would incorporate the limitations of Internal Revenue Code §415. 1/ Both of these amendments would be made to Section 4.9 of the SRP. The Administration Committee has given its approval to them and they are now proposed for the endorsement of the Pension Committee.

The first consequential amendment would ensure that the pension of the surviving spouse is to be calculated as 50 per cent of the amount of the pension of the first annuitant before rather than after its reduction to conform to the limitation of IRC §415. Thus if the first annuitant's annual pension were required by that limitation to be reduced from $120,000 to $108,000, the surviving spouse's pension payable from the Staff Retirement Plan would be $60,000 rather than $54,000.

The cost to the Employer would be the same as if it had assumed the obligation of making whole the pension of the surviving spouse through payments from a supplemental benefits plan. While this cost would remain constant, a tax advantage under U.S. federal tax law would accrue to the surviving spouse inasmuch as the employee's contributions (together with those of the Employer in the case of a non-American employee) would be excludible from the amount subject to tax.

The amendment could be effected by inserting after the words "was receiving", as those words appear in the sixth line from the bottom of page 20 of the Staff Retirement Plan in Section 4.9(c), the following language:

> "or would have received but for the application of Section 4.12,"

and by adding a new sentence at the end of Section 4.9(d):

> "Pensions payable in accordance with this Section 4.9, together with any augmentation resulting from an election under Section 4.6, shall be subject to the provisions of Section 4.12."

1/ The latter were referred to in RP/CP/83/18, dated November 28, 1983, at paragraph 10 of the Statement.

The second consequential amendment would ensure that, for the purposes of calculations under IRC §415, the surviving spouse pension paid under Section 4.9 of the SRP is a "qualified joint and survivor annuity" as that term is understood under the Internal Revenue Code.

Most qualified pension plans are required to ensure that the payment of benefits in the form of an annuity have the effect of a qualified joint and survivor annuity. Through the interaction of IRC §401(a)(11)(A), the final sentence of IRC §401(a), and IRC §411(e)(1)(A), the Staff Retirement Plan of the Fund is exempt from this requirement. Nevertheless, the qualified feature of a joint and survivor annuity is relevant for the Staff Retirement Plan when considered in the context of the proposed amendments that would incorporate the limitation of IRC §415. This is because the calculation of the amount subject to the limitation under IRC§415 may be substantially reduced if a pension payable under SRP Section 4.9 meets the requirements of a qualified joint and survivor annuity. The effect of this reduction would be to permit a larger pension payment to be made to the recipient than would be the case if the pension failed to meet those requirements.

While the statutory definition of a qualified joint and survivor annuity is set out at IRC §401(a)(11)(G)(iii), Section 1.401(a)-11(d)(3) of the Income Tax Regulations deals with the authorized marriage features of such an annuity. This latter provision does not specifically authorize a stipulation, such as appears in SRP Section 4.9(d), that the pension of a surviving spouse shall cease upon remarriage. Moreover, Section 1.401(a)-11(b)(2) of the Income Tax Regulations expressly states that: "An annuity is not a qualified joint and survivor annuity if payments to the spouse of a deceased participant are terminated, or reduced, because of such spouse's remarriage."

A stipulation against remarriage is a relic of an earlier outlook and it is our understanding that it is included in few retirement plans that are currently established. In the history of the Staff Retirement Plan it has only rarely been invoked. The consulting actuary has advised that the cost to the Employer of removing this stipulation would be so minimal as to warrant being disregarded for purposes of actuarial calculations. This is because while the removal of the disincentive to remarriage may tend to induce some pensioners to remarry (who are currently required to remain single in order to be eligible for pension payments), the cost to the Employer of continuing previous payments to them following remarriage would be unaffected. In view of these considerations, it is proposed that the first sentence of SRP Section 4.9(d) be deleted in order to permit the survivor's pension payable under the Staff Retirement Plan to qualify for the preferred treatment under IRC §415. The amendment would have only prospective effect.