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ATTENTION**

EB/CAP/92/10

September 30, 1992

To: Members of the Committee on Administrative Policies
From: The Committee Secretary
Subject: Workers' Compensation Policy

There is attached for consideration by the Committee a paper concerning proposed modifications to the Fund's workers' compensation policy. Draft recommendations are set forth on pages 5-6.

Mrs. Shannon (ext. 37258) or Miss Dove (ext. 38221) is available to answer technical or factual questions relating to this paper.

In the absence of a request to the Committee Secretary by noon on Wednesday, October 7, 1992, that this matter be considered in Committee, the recommendations will be deemed approved by the Committee for submission to the Executive Board on a lapse of time basis.

Att: (1)

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Members of the Executive Board

INTERNATIONAL MONETARY FUND

Recommended Modifications to GAO No. 20--Workers' Compensation

Prepared by the Administration Department

(In consultation with the Legal Department)

Approved by Graeme Rea

September 29, 1992

This paper proposes certain modifications to the Fund's workers' compensation policy, the provisions of which are set out in General Administrative Order (GAO) No. 20, Rev. 3. These modifications are in line with recommendations made by the Wyatt Company, who were employed as consultants to make a comprehensive study of the Fund's workers' compensation policy and procedures. The Wyatt Company was asked to compare the Fund's policies and procedures with those of other international organizations and with the statutory requirements of the District of Columbia.

1. Background

In the United States, as in many other countries, there are laws that regulate the liability of employers in respect of employees' work-related illnesses, injuries, or death. These laws--in the U.S. called "workers' compensation" laws--vary from state to state. Generally, they make the employer strictly liable for work-related illness, injury, or death, but at the same time they limit the various forms of compensation that employees are entitled to receive. Since 1947, although under no legal obligation to do so, the Fund has been committed to providing staff with protection similar to that afforded by workers' compensation laws. Until 1980, the Fund voluntarily subscribed to the District of Columbia's workers' compensation program and observed the provisions of the District of Columbia's workers' compensation laws. Following an escalation of the costs of fully insured workers' compensation plans, the Fund decided in 1980 to move to self-insurance and chose to determine the provisions of its workers' compensation in a way that seemed more appropriate to the needs of the Fund and its employees. The provisions of the policy are set out in GAO No. 20 and are administered by a company specializing in workers' compensation benefit services. In some respects, these provisions do not correspond with the provisions of the relevant regulations of the District of Columbia; in particular, the levels of disability pensions set by the Fund are not subject to the limits prescribed by D.C. law.

Over the years, a number of questions have arisen on the appropriateness and relevance of the Fund's workers' compensation policy and procedures. To look at these questions, the Wyatt Company was asked to conduct a comprehensive study of the Fund's policy and procedures and to make comparisons with the laws of the District of Columbia and with similar provisions in other international organizations. From this study, and its subsequent review by the staff, five recommendations emerged. Two of them were administrative and were immediately instituted; two dealt with the policy issues that are the subject of this paper; and the fifth--the establishment of a reserve--will require further study. 1/

The two recommendations of a policy nature, both of which will affect the costs the Fund will incur, concern (i) the manner in which total and permanent disability and death benefits are coordinated with the Staff Retirement Plan; and (ii) compensation payable for so-called scheduled injuries.

2. Total and Permanent Disability

Under GAO No. 20, staff members, Executive Directors and Alternates, and Advisors and Assistants to Executive Directors who suffer work-related permanent total disability will receive a workers' compensation annuity equal to 66-2/3 percent of final pensionable remuneration.

It has been the practice of the Fund to place primary reliance on the disability pensions made available under the Staff Retirement Plan (SRP) to compensate employees who are totally and permanently disabled by a work-related injury. If the disability pension payable under GAO No. 20 is larger than the disability pension under the SRP, the Fund pays from its own resources the additional amount required to bring the total pension up to the level required by its workers' compensation policy. However, as the Wyatt Company pointed out, it is standard practice in the private sector for employers to pay the whole of work-related disability benefits through workers' compensation insurance and not through a normal pension plan. The Legal Department advises that the Fund's primary reliance on the SRP would seem to be contrary to the requirements of current U.S. pension and workers' compensation laws, because under those laws work-related disabilities are the exclusive liability of the employer. Using the resources of the SRP, which derive from both employer and employee contributions, for the payment of liabilities that in law are the sole responsibility of the employer could arguably be inconsistent with the fiduciary standards applicable to a qualified pension plan.

1/ A further recommendation made by the Wyatt Company was for the Fund, like the World Bank, to submit itself voluntarily to the D.C. Workers' Compensation Act. Subsequently, however, the World Bank was notified that the D.C. Office of Workers' Compensation would no longer process or adjudicate claims on the Bank's behalf due to the privileges, exemptions, and immunities granted to international organizations. Thus, this recommendation became moot.

It is, therefore, recommended that the Fund adopt a new method of financing disability compensation for persons who become disabled as a result of a work-related injury or illness. The levels of such pensions would continue to be as prescribed by GAO No. 20, but in future the Fund would assume the primary role in financing the pensions, up to the limits imposed on employers by the laws of the District of Columbia. In other words, instead of following the present practice of drawing first on the SRP and then "topping up" as necessary from its own resources, the Fund would draw first on its own resources to provide the amount prescribed by D.C. law, and would then draw on the SRP for the balance needed to meet the pension level specified in GAO No. 20. Very occasionally cases could arise where the disability pension payable from the SRP is insufficient to achieve the level prescribed by GAO No. 20, and in those cases the Fund would make up the shortfall.

Under Section 10.5 of the Staff Retirement Plan, the benefits of a disability pension can be reduced to the extent that a benefit is paid under the workers' compensation policy. The way in which such reductions are to be implemented lies with the Administration Committee of the SRP, which is required to decide that this be done in an "equitable manner." The Administration Committee has discussed the need to draw up rules for dealing with these cases in a consistent manner and has concluded that it will do so if the Executive Board approves the proposed shift in the financing of the relevant payments. 1/

As regards the potential costs of this proposed change, it is not proposed to make any change in the financing of the four work-related disability pensions presently being paid, and thus there would be no immediate budgetary impact. As for the future, it cannot, of course, be predicted how many such disability pensions might be payable over the years. The four pensions presently being paid total about \$340,000 annually, of which the SRP presently meets \$220,000 and the Fund \$120,000. Had the proposed change been in force prior to the first of these cases, approximately \$250,000 (i.e., an increase of about \$130,000) would now be borne by the Fund. However, this additional expense for the Fund would be offset over time. This is because, under the method used to finance the SRP, as a defined benefit plan, the Fund is committed to pay the difference between

1/ Section 10.5 of the Staff Retirement Plan reads as follows:

"Any amounts which may be paid or payable to any participant or to his dependents or otherwise on his account, as the result of premiums, taxes or contributions paid by the Employer under any Workmen's Compensation Law or plan, or under any workman's compensation or employer's liability policy, or under any other plan, whether self-insured or otherwise, on account of his death or of any incapacity for which he shall have been retired hereunder, may be offset against and payable, or deemed to be payable, in lieu of such part of his disability pension provided hereunder, in such equitable manner as the Administration Committee shall decide."

employee contributions and the costs of providing the benefits payable; other things being equal, if the costs of disability pensions are reduced for the SRP, the Fund's contributions to the SRP would fall. It is also intended that the Fund would arrange for some form of "stop-loss" insurance to cover the possibility of an exceptional bunching of claims for work-related disability pensions.

3. Death Benefits

Death benefits payable under GAO No. 20 are as follows. If the staff member (or other person covered by GAO No. 20) is survived by a spouse only, or by an unmarried child only, the surviving spouse or the child receives a pension equal to 50 percent of final pensionable remuneration. The pension is 66-2/3 percent of final pensionable remuneration if the staff member is survived by a spouse and at least one unmarried child or if the staff member has no spouse but is survived by two or more children. Pensions cease upon remarriage of a spouse, or when a surviving child becomes 19 years old (or 22 years old for a full-time student). In addition, a lump sum of 150 percent of final net remuneration is payable to the person or persons designated by the staff member as beneficiaries on the "Designation of Beneficiary" form that each staff member signs; however, GAO No. 20 requires that this amount be reduced to the extent that lump sum payments are made under the SRP, the Group Life Insurance Plan, the Travel Accident Insurance Plan, the lump sum grant in the event of death, and the separation grant.

It is proposed that the principle set out above for disability pensions be followed in respect of those pensions that might become payable to a surviving spouse or children in the event of a work-related death. ^{1/} Pensions in the amounts prescribed under GAO No. 20 would be paid, with the Fund paying the maximum amounts required by the D.C. regulations, and the difference being made up from the Staff Retirement Plan. As with disability pensions, in the few cases in which the amounts available from the Staff Retirement Plan were insufficient to raise the benefits to the levels prescribed under GAO No. 20, the Fund would cover the shortfall.

As with disability pensions, the Administration Committee of the Staff Retirement Plan would need to adopt rules in respect of offsetting the amounts paid by the Fund with the amounts payable under GAO No. 20. The Committee has discussed this matter and agreed that it would adopt the necessary rules if the Executive Board approves the proposed shift in the method of meeting these payments.

^{1/} There are presently no survivors' pensions being paid under GAO No. 20.

4. Scheduled Injuries

These injuries involve the loss of, or the loss of the use of, specific "body members," e.g., legs, fingers, etc. The basic assumption is that the financial loss is related to the nature of the impairment. In most jurisdictions, the actual amount payable is a specific number of weeks (depending on the "body member" involved) multiplied by a weekly benefit amount in effect at the time of injury.

In 1980, when it became self-insured, the Fund established a list of "Scheduled Injuries," which provides for a lump sum payment to compensate for the loss of, or the loss of the use of, specific "body members." Although the dollar amount attached to these specific body members is updated each May 1 based upon the percentage used for SRP cost-of-living adjustments, these lump sum payments are now below the payments provided by the D.C. workers' compensation regulations. The attached table shows the differences between the lump sum payments provided by GAO No. 20 and those provided by the D.C. regulations, effective May 1, 1992. It is proposed that the payments called for under the D.C. regulations be incorporated into GAO No. 20. The principle would be that payments would reflect D.C. regulations current at the time of the event that gave rise to the relevant loss.

5. Amendment of GAO No. 20

The details of the present Workers' Compensation Policy are set out in GAO No. 20, and the proposals in this paper, if approved, will entail the amendment of that GAO. The draft decision set out below seeks approval of the broad changes in principle that are proposed. The consequential amendments to GAO No. 20 will need to be more detailed; for example, they will need to cover the indexing of pensions from year to year and the ability of pensioners to receive their pensions in their home currency.

Draft Decision

The Committee on Administrative Policies recommends that the following decision be adopted by the Executive Board:

1. (a) The pension payable in respect of total and permanent disability resulting from a work-related illness or injury, and the benefits payable in respect of work-related death, shall be the higher of the amounts specified in GAO No. 20 and the amounts of the disability pension or the death benefits, respectively, payable under the provisions of the Staff Retirement Plan.

(b) In financing these pensions or benefits, the Fund shall first pay from its own resources the full amounts prescribed as payable under the workers' compensation regulations of the District of Columbia. The balance of the financing shall be paid from the Staff Retirement Plan under the provisions governing the payment of disability pensions or death benefits, as applicable. If the aggregate amount of such payments is less than the

amounts payable under (a) above, the Fund will pay the difference from its own resources.

2. Lump sum payments under GAO No. 20 for the loss of a body member or function shall be those payable under the relevant schedule of the workers' compensation regulations of the District of Columbia current at the time of the event that gave rise to the loss.

Attachment

ATTACHMENT

Schedule of Lump Sum Payments for Loss of Member
or Function Under Workers' Compensation

Comparison of Schedules under D.C. Law and under
the Fund's Workers' Compensation Policy, 1992

Body Member	Weeks of Compensation Payable	D.C. Law 1/ Schedule Effective 1/1/92	Maximum Benefit per Fund's GAO No. 20 Lump Sum Payable Effective 5/1/92 2/
Arm at shoulder	312	\$191,284	\$166,800
Hand	244	149,594	132,700
Thumb	75	45,982	33,400
First finger	46	28,202	16,600
Second finger	30	18,393	each
Third finger	25	15,327	finger
Fourth finger	15	9,196	
Leg at hip	288	176,570	150,300
Foot	205	125,683	116,700
Great toe	30	18,393	16,200
Other toes	16	9,809	each toe
One eye	160	98,094	83,400
Hearing-one ear	52	31,881	33,400
-both ears	200	122,618	99,900

1/ Compensation is paid biweekly for the number of weeks specified. The rate of compensation is 66-2/3 percent of the employee's average weekly wage, subject to a maximum based on average weekly wages of insured D.C. employees or \$613.09, whichever is greater. The dollar amounts shown in this table represent the maximum amounts payable for the prescribed periods at a rate of \$613.09 per week.

2/ The schedule of payments is adjusted annually for cost-of-living increases, in accordance with Section 7.02 of GAO No. 20. This schedule reflects an increase of 2.7 percent effective May 1, 1992.

