

NOBLEMAIRE PRINCIPLE IN THE CONTEXT OF INTERNATIONAL CIVIL SERVICE

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Abstract: One aspect of the Law of International Organisations that have not attracted the attention of International Law Scholars is the age long concept of “Noblemaire Principle” of 1921 which was adopted during the years of the League of Nations and is still being used for the determining the salaries of international civil servants. The Principle has been adopted by the International Civil Service Commission (ICSC) as a standard for remunerating official of international organizations like the United Nations and its Agencies. This paper therefore intends to examine the relevance of the “Noblemaire Principles” in contemporary global civil services and to see whether it still meets the need of the present time or requires necessary review by the International Civil Service Commission? This paper will also examine the realities of 1921 with those of present day by relying on the Congressional report from research commissioned by the United States, Government Accountability Office (GAO) in 2013 to see whether the Noblemaire Principles still meets the needs of time having found from reports that the margin between U.N and U.S. civil service salaries has increased over a period of ten years while the Noblemaire Principle which relies and applies the US Civil Service salary scheme in payment of the salaries of UN and other International Staff is still being considered as normal. Then should the Noblemaire Principle be maintained as the pay-setting yardstick for the UN and other international civil servants considering its antiquated nature?

Keywords: Noblemaire Principle, ICSC, UN, US, International Civil Servants

1 INTRODUCTION

The backbone of every international organisation is its civil service, the staff working for the organisation. The efficiency achieved in the discharge of its obligations as enshrined in its charter, convention, protocol, constitution or constituent instrument is as a result of the efficiency of the international civil servants² employed to work in the organisation. An international civil service is quite similar to national civil service, in purpose and structure, although there are important differences. The multinational composition and often divided loyalties

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² An international civil servant is a person to whom the representatives of several States, or organ acting on their behalf, have entrusted, in virtue of an inter-State agreement and under their supervision, the continuous and exclusive exercise of functions in the common interests of the States in question subject to special legal rules. See Basdevant, Suzanne (Bastid): *Les fonctionnaires internationaux*, Recueil Sirey, Paris, 1931, p. 53, as quoted by M.B. Akehurst: *The Law Governing Employment in International Organisations*, Cambridge: Cambridge University Press, 1967, p. 358.

create problem which national administrators do not encounter. Although the variety of background and the lack of tradition may make it possible to find new solution to old questions, they also hamper the creation of a good administrative system.³ The function of an international civil servant requires personal qualification and an international attitude.⁴ For professional post (administrative ranks) a university degree is normally required. Again most international organisation requires practical experience. In many of their task international civil servants will be expected to know how particular problems are solved in their own countries. Practical experience will increase that knowledge and will provide the civil servant with contacts who may provide information. Furthermore candidates for post in international organisations should have linguistic ability. In most international organisations there is one dominant language which must be known; even if there are other official languages good knowledge of a second language is usually required.⁵ Apart from Professional qualifications nationality plays an important role, though international organisations rarely recruit from non-member States.⁶ Therefore this nature of requirements for recruitment requires adequate payments for the purpose of efficiency while in service and to also avoid divided loyalty. The concept of the modern international civil service was firstly realized in the international Secretariat of the League of Nations and in the International Labour Office (Geneva, 1920) respectively..⁷ Hence with the establishment of the League of Nations, in 1921 a committee chaired by a French diplomat Mr. Georges Noblemaire met to set the salaries and remuneration of the staff of the League of Nations. Though the Committee did not enunciate a principle, the provisions of paragraph 18 of the Noblemaire Committee's report stated that "We admit that the salaries which we propose are based on those of the highest-paid Civil Services in the world..." Because some believed that the salaries of the League of Nations employees were "too high" the Noblemaire Committee was under considerable pressure to reduce the salary scale. However,

³ H.G Schermers & N.M Blokker, *International Institutional Law: Unity Within Diversity*, Boston/Leiden: Martinus Nijhoff Publishers, 2003, pp.343-344

⁴ T.G Weiss, *International Bureaucracy*, 49-105 (1975).

⁵ H. Gets and H. Jutter, *Personal in Internationalen Organisationen*, (1972).

⁶ H.G Schermers & N.M Blokker, above note 2, at pp. 348, 352

⁷ Dobromir Mihajlov, "The Origin and the Early Development of International Civil Service" *Miskolc Journal of International Law*, Journal of International Law Department of the University of Miskolc, Vo.1 (2004) No.2, pp.79-87, available online at <http://www.uni-miskolc.hu/~wwwdrint/20042mihajlov1.htm>, accessed 17 April, 2015.

the Committee maintained its position that the League of Nations must be able to recruit from the civil service of all its members and thus, it was imperative that the salaries be pegged to the highest-paid civil service in member Countries.⁸

2 EVOLUTION OF THE NOBLEMAIRE PRINCIPLES UNDER THE LEAGUE SYSTEM

The Noblemaire principle, which dates back to the days of the League of Nations and which the United Nations inherited, embodies two rules. One is that, to keep the international civil service as one, its employees shall get equal pay for work of equal value, whatever their nationality or the salaries earned in their own country. The other rule is that in recruiting staff from their full membership international organisations shall offer pay that will draw and keep citizens of countries where salaries are highest.⁹ The remuneration of staff is based on the “Noblemaire Principle” is derived from the name of the Chairman of a Committee of the League of Nations which first formulated it in 1920. This principle holds that an international organization must remunerate its entire staff equally for work of equal value, irrespective of differences in levels of pay in the various countries from which they are drawn. It must also be able to recruit and retain staff from all its member states. Consequently, the uniform level of pay it provides must be sufficient to attract staff from the country or countries where national pay levels are highest.¹⁰

⁸ FICSA Council, “The Noblemaire Principle”, FICSA/C/57/PSA/4, Geneva, 9 January 2004, 57th Session WMO, Geneva 2 to 7 February 2004, pp.1-2. The Noblemaire Principle, establishing the practice of basing the salaries of international civil servants on those of a comparator civil service, arose from a Committee of Experts, the Noblemaire Committee that, in 1921, came up with a proposal to base the salaries of Professional staff on those of the best paid civil service in the world. Since that time, the report of the Noblemaire Committee has served as the rationale underlying the salary system and has come to be referred to as the Noblemaire Principle. In 1921, the comparator (for the League of Nations) was the British civil service. Since the founding of the United Nations in 1946, the United States of America’s national civil service has been the comparator. See UNSpecial N° 621- August/September – Août/Septembre 2003 United Nations, New York, 14-25 July 2003, Highlights of the 57th Session of the ICSC: Available online at http://www.unspecial.org/UNS621/UNS_621_T08.html accessed 18 April, 2015.

⁹ In Re: Beattie and Sheeran, Delivered in public sitting in Geneva on 5 June 1987. (ILOAT Judgment 825) Available online at, http://www.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=825&p_language_code=EN, accessed 14 April, 2015.

¹⁰ “UNDP Human Resources Principles of Remuneration”, available on line at <https://info.undp.org/global/popp/hrm/Pages/principles-of-renumeration.aspx>, accessed 16 April, 2015.

According to David Singer, during 1920 the Assembly of the League of Nations requested the Council to appoint a small permanent body to supervise the organization's finances, but this suggestion was rejected. With the report of the Noblemaire Committee,¹¹ the opportunity to review that decision was provided.¹² After its exhaustive three-month study, the Committee concluded that such a commission of control might be advisable:

It is a serious defect of the system as we find it that the Assembly should be without the benefit of expert advice and it is equally embarrassing to the Secretary-General that he should be without the opportunity of justifying his proposals in a more ample manner than is possible under the present system. We therefore recommend the creation of a Commission of Control... for the purpose of investigating in detail the budget of the League of Nations for the ensuing fiscal year

being 1921.¹³

The Fourth Committee accepted the Noblemaire Committee Report, and added the stipulation that the Commission of Control's members should be representative not only of the states on the Council, but the others as well. The Assembly approved the decision, and on 12 October, 1921, the Council appointed the Commission of Control, or Supervisory Commission, as it came to be known. As part of the findings of the Noblemaire Committee in 1921 was the motivation of international officials with enhanced salary scale and other attractiveness in their career. It stated that their recruitment and career should be based on merit and not on national or political protection. It urged that staff should be selected reflecting a wide geographical distribution. Permanent employment contracts are proposed to increase the security of job and to strengthen the capability of officials to resist pressures exerted by their home governments. And last but not least, the recommendation that for the sake of attracting highly qualified officials it is indispensable to establish their salary level as exceeding or at least equal to the best paid national civil services in the world being at that time the British one, reflects the lesson from the experience of the Institute for Agriculture in Rome and is now known as the Noblemaire principle.¹⁴

¹¹ See League of Nations, *Official Journal*, 1921 (NO. 2), p. 113.

¹² J. David Singer, "The Finances of the League of Nations", *International Organization*, Vol. 13, No. 2. (Spring, 1959), pp. 258-259

¹³ *Ibid.*

¹⁴ Dobromir Mihajlov, above note 6.

3 NOBLEMAIRE FORMULA AS APPLIED BY THE LEAGUE OF NATIONS

The Noblemaire Committee as applied under the League of Nations system in 1921¹⁵ recommended that the level of salaries of international civil servant should be determined by three basic principles that: the remuneration of international civil servant be such as to attract and retain the most competent and most efficient citizens of any member state of the league, that the expatriation factor be taken into account, and that the level on international civil servants' salaries should not be subject to ebb and flow of public criticism. The civil service salary scales of the best-paying country. The difference between the level in cost of living in the best-paying country and the headquarters of the League and the expatriation factor.¹⁶

4 APPLICATION OF THE NOBLEMAIRE PRINCIPLE UNDER THE UNITED NATIONS SYSTEM

When the United Nations was established, reference was made to its predecessor regarding a number of issues and one of these was salaries. Reference was made to the "Noblemaire principle" and over the years a variety of interpretations were enunciated. The most commonly accepted formulation of the principle dates to the time of the Special Committee for the Review of the United Nations Salary System in 1971-1972 when it was stated: "This Principle says in effect that, since there should be no difference in salary on the ground of nationality, the conditions of service of the international staff must be such as to attract citizens of the country with the highest pay levels."¹⁷ This principle was invoked by UNESCO an agency of the U.N in the arbitration tribunal constituted by the Government of the French Republic and the United Nations Educational, Scientific and Cultural Organization to consider the question of the tax regime governing pensions paid to retired UNESCO officials residing in France. According to argument by UNESCO,

¹⁵ See the League of Nations, Assembly, I, 1920, *Records, Meetings of the Committees*, Vol. I, p. 62, and Vol. 11, p. 141-143; *Records, Plenary*, p. 29. See League of Nations, Assembly, I, 1920, *Records, Meeting of the Committees*, Vol. 11, p. 77.

¹⁶ Maureen Appel Molot, Von Riekhoff, *Canada Among Nations, A Part of the Peace*, 1994, p.332, See Alexander Efimov and Nasser Kaddour, *Staff Cost and Some Aspect of Utilization of Human and Financial Resources in the United Nations Secretariat*, (Geneva: Joint Inspection Unit, 1984) JIU/REP/84/12, pp.4-18

¹⁷ FICSA Council, above note 7, Item 5.

the Noblemaire principle, conceived by the League of Nations and taken up by the United Nations, international officials (civil servants) should receive salaries equal to those offered in the highest-paid national civil service. The principle concerns both the States that establish an organization and the organization itself. Prospective international civil servants certainly take it into consideration when they choose their careers. However, it has no specific bearing on the line of reasoning the Tribunal is following in order to answer the question posed in article II of the Arbitration Agreement.¹⁸

Graham Hancock in his book "The Lords of Poverty: The Power, Prestige, and Corruption of the International Aid Business", stated that the aid "industry" is quite lucrative for those who administer its programs. Incomes for employees of international agencies are determined by the "Noblemaire Principle," named after Georges Noblemaire, an employee of the League of Nations in the 1920s. According to this principle, salaries for employees of international organizations should be high enough "to attract as employees citizens of the country with the best-paid national civil service." United Nations pay rates must therefore exceed "those of the federal civil service of the richest country on earth, the United States."¹⁹ According to Kellan Howell of Washington Post,

The Noblemaire Principle requires compensation for United Nations professional staff to be set in comparison to the highest compensated national civil service, and since 1945, the United Nations has considered this to be the U.S. Federal civil service.²⁰

Therefore the Noblemaire principle have set an international benchmark for the salaries of international staff to be higher than that of the highest paid civil servant in the highest paid country in the world.²¹

¹⁸ Kéba Mbaye *Presiding Arbitrator* Jean-Pierre Quéneudec *Arbitrator*, Nicolas Valticos, *Arbitrator*, Extract from United Nations Judicial Years Book, 2001, Part Three. Judicial decisions on questions relating the United Nations and related intergovernmental organizations, Chapter VII. Decisions and Advisory Opinions of International Tribunals, ratio 83, p.441.

¹⁹ Graham Hancock, "The Lords of Poverty: The Power, Prestige, and Corruption of the International Aid Business", New York: Atlantic Monthly Press, 1989, p.60, available online at <http://fee.org/freeman/detail/book-review-lords-of-poverty-the-power-prestige-and-corruption-of-the-international-aid-business-by-graham-hancock>, accessed 17 April, 2015. Interestingly, despite the Noblemaire Principle which is supposed to attract experts, U.N. agencies increasingly rely on the expertise of "outside consultants." The *minimum* salary for a consultant is \$100,000. The average salary is probably closer to \$150,000. Since the number of consultants exceeds 150,000, this puts the cost at more than \$22 billion. When the salaries of the regular employees are combined with the costs of consultants, the amount is well over half of all that is spent by governments on aid each year. In fact, "personnel and associated costs," Hancock notes, "today absorb a staggering 80percent of all U.N. expenditures."

²⁰ Kellan Howell, The Washington Times - Thursday, 26 June, 2014, available online at <http://www.washingtontimes.com/news/2014/jun/26/un-compensation-costs-soar-1-billion/?page=all>, accessed 20 April, 2015.

²¹ Since the creation of the United Nations, the federal civil service of the United States of America has been retained as the highest-paid national civil service. At the same time, reference checks

5 CHARTER OF THE UNITED NATIONS AND THE NOBLEMAIRE PRINCIPLE

The fundamental provisions underlying the establishment of the conditions of service of staff are contained in the Charter of the United Nations and corresponding provisions of the constitutions of the specialized agencies.²²

The UN Charter, in particular, states that

the paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.²³

International Organisations have thus always attracted high quality staff. This is also because the organisation offers challenging and interesting career in the pursuit of universal ideals and aims and offers conditions of works that compares favourably with that of other employers. The League of Nations decided in 1921 to recruit highly qualified staff, representative of its member nations, the salary scale for internationally recruited, professional and higher category, staff should compare favourable with the highest paid national civil service (currently the United States federal civil service) this concept became known as the Noblemaire Principles and was adopted in 1945 as the conceptual basis of the salary scale of internationally recruited staff.²⁴

For locally recruited, General Service and related Category Staff, a similar principle applies. While Professional level salaries are set to compare favourable with those of the best remunerated national civil service. General service salaries are set to match the best prevailing conditions at each duty station. This is known

with other international organizations have shown that the United Nations lags consistently behind those in terms of overall compensation.

²² United Nations, International Civil Service Commission, "Review of the Common System Compensation Package", Seventy-sixth session New York, 25 February to 8 March 2013, Item 5 (a) of the provisional agenda, Conditions of service of applicable to both categories of staff, 31 December, 2012, p.7.

²³ Charter of the United Nations adopted in June 1945, entered into force 24 October, 1945, 59 Stat. 1031, TS 993, 3 Bevans 1193. Article 101(3).

²⁴ Mohsen Bel Hadj Amor, *International Civil Service Commission, A Quarter-Century Serving the United Nations Common System*, International Civil Service Commission, September, 2000, p.13

as the Flemming Principle, named after the Chairman of a 1949 committee of experts that first enunciated it.²⁵

Since the creation of the United Nations and the specialized agencies, in order to ensure the exclusively international character of the responsibilities of the staff, their highest standards of efficiency, competence and integrity and their recruitment on as wide a geographical basis as possible, the levels of pay for staff in what subsequently became the Professional and higher categories have been determined on the basis of the Noblemaire principle. In its first annual report the International Civil Service Commission (ICSC)²⁶ reaffirmed the continued validity of the principle and described it in the following terms: "For the international civil service, only a global salary system could ensure both equity and the necessary mobility of staff".

In line with the principle of "equal pay for equal work", no distinction could be admitted in the remuneration of internationally recruited staff on the grounds of their nationality or of salary levels in their own countries. Since the organizations must be able to recruit and retain staff from all of the Member States, the level of remuneration must be sufficient to attract those from the countries where salary levels are highest with the inescapable consequence that the level would then be higher than would be needed to attract staff from countries with lower national salary levels and might appear excessive to the Governments and taxpayers of those countries. In order to determine the appropriate level of salaries for the United Nations, the preliminary conclusion of the Commission, like that of its predecessors, was that no acceptable alternative could be found to the existing practice of comparison with the salaries of the national civil service of the Member State whose levels were found to be highest and which otherwise lent itself to a significant comparison. Although inherited

²⁵ *Ibid.* The Noblemaire Principle named after the Chairman of a Committee of the League of Nations that considered the level of remuneration of the League's internationally recruited staff. As the League needed staff from all its member states it had to be able to attract people from countries with the highest pay national service. In Noblemaire's days the salary of the civil service of the U.K was the highest paid and so the League's salary was calculated by reference to the British pay scale. For the same reason UN used the Noblemaire Principle to determine the salary scale for its internationally recruited staff (Secretarial, Clerical and other general service staff are recruited locally). To date the Federal civil service of the United States has been taken as highest paid and has been used to determine the UN's salary scale. The UN organ entrusted with the necessary technical analysis is the International Civil Service Commission. See Edmund Jan Osmańczyk, Anthony Mango, *Encyclopedia of the United Nations and International Agreements: A to F*, Taylor & Francis, 2003, pp.1570-1571

²⁶ (A/10030),1975.

from the League of Nations and dating back over 90 years, the Noblemaire principle is periodically reviewed by the Commission and the General Assembly, which, under Article 10 of the ICSC statute,²⁷ has the ultimate responsibility for establishing the broad principles for the determination of the conditions of service of staff. Both the United Nations and the ICSC have confirmed the continued validity of the Noblemaire principle on numerous occasions and most recently in 2011.²⁸

6 CRITICISMS OF THE AGE LONG NOBLEMAIRE PRINCIPLES

There have been criticisms of Noblemaire scaling of the salaries of staff of international civil servants over the years. Most obvious criticism primarily relate to the direct linkage to a single national salary system. That linkage was considered as having posed difficulties as to: The continued accuracy of the grading comparisons between the two systems. This was one of the problems highlighted by the German Government in 1995 when the comparison showed that the German civil service was 10.5% higher than the US federal civil service.²⁹

Technical disparities in the elements comprising total emoluments (or total compensation) in either system, the long-standing problem of the time-lag between revisions of international salaries on the basis of government salaries which, in turn, are based on earlier movements in a national economy, the problem of defining and rationalizing the appropriate margin for the various UN grade levels over equivalent national civil service rates, the problem of using a national system that is prone to political influence and the impact of a “national emergency” on government salaries. Lastly the fact that, while remuneration must be sufficient to attract staff from the countries where salary levels are highest, the level would then be higher than would be needed to attract staff with lower national salary levels, and might appear excessive to the governments and taxpayers of those countries.

Though the possible reasons for the continued adoption of the Noblemaire Principle, for the remuneration of United Nations and other International Staff are because international service offers less stability and security of employment

²⁷ International Civil Service Commission Statute and Rules of Procedure, United Nations, New York, 1987, Article 10.

²⁸ (See ICSC/72/R.5 and General Assembly Resolution 66/235 A).

²⁹ FICSA Council, above note 7, Items 14 and 15.

than national civil service; prospects of promotion are more limited in an international secretariat than in most national civil services; a large proportion of United Nations staff are required to incur additional expenses and to make certain changes in lifestyle as a result of living away from the home country.³⁰

It should be noted that from the earliest days, criticism of the Noblemaire principle arose due to concerns that its application was underestimating the stipend to international civil servants; later, around the time the ICSC was established the concerns seemed to have turned to the fact that the international civil servants were being paid too much but this seems to be incorrect going by the congressional report from research conducted by the United States, Government Accountability Office (GAO) in 2013.

7 ROLE OF INTERNATIONAL CIVIL SERVICE COMMISSION IN EVALUATION OF THE REMUNERATION OF INTERNATIONAL CIVIL SERVANTS

The UN General Assembly established International Civil Service Commission (ICSC) in 1974³¹ as an independent expert body with a mandate to regulate and coordinate the conditions of service of staff in the UN common system. As part of its mandate, ICSC determines compensation for employees within the UN common system. Each year, ICSC makes recommendations to the General Assembly to change base salaries to align them with any change in U.S. civil service salaries.³² The General Assembly must approve ICSC's recommendations for the proposed changes to take effect.³³ In addition, ICSC determines the cost of living component of UN salaries, called the post adjustment, without prior approval from the General Assembly. ICSC also has the authority to make decisions and take action independently on some routine compensation matters, such as establishing rates for some allowances and benefits. For example, ICSC may set the amount of hardship allowance for a duty station without General Assembly approval. ICSC is required to submit an annual

³⁰ United Nations, International Civil Service Commission, above note 21, at p.8.

³¹ Special Committee for the Review of the United Nations Salary System and Resolution 3042 (XXVII) of the General Assembly in 1972. Resolution 3357 (XXIX) 1974.

³² United States Government Accountability Office, "UN Compensation United Nations Should Clarify the Process and Assumptions Underlying Secretariat Professional Salaries", Report to Congressional Requesters, United States Government Accountability Office, GAO-13-526, 29 May 2013, p.10

³³ *Ibid.*

report to the General Assembly that includes information on the implementation of its decisions and recommendations. In practice, the General Assembly refers ICSC's report and any recommendations to the Fifth Committee, the UN's administrative and budgetary committee. The Fifth Committee considers ICSC's recommendations, including any financial implications of its proposals on the UN budget, and reports its draft resolutions and recommendations to the General Assembly. The General Assembly makes the final decision and issues resolutions on ICSC's recommendations. Member states provide input and vote on ICSC's recommendations through the Fifth Committee and the General Assembly.³⁴

The Noblemaire principle is the basis used by the ICSC for the determination of conditions of service of staff in the Professional and higher categories.³⁵ Under its Statute, the International Civil Service Commission (ICSC) is required to submit to the United Nations General Assembly an annual report that is transmitted to the governing bodies of the organizations of the United Nations system through their executive heads on prevailing salaries for international civil servants.³⁶ ICSC determines salaries for Secretariat professional staff according to the Noblemaire Principle, which states that compensation should be high enough to attract civil servants internationally. In practice, the UN bases salaries for employees on salaries for U.S. civil service employees. The General Assembly has stipulated that salaries should be between 110 and 120 percent of U.S. salaries. The UN and the U.S. government also offer employees benefits and allowances.

The International Civil Service Commission determines changes to each component of United Nations (UN) Secretariat professional employees' salaries and calculates the difference between UN and U.S. civil service salaries annually. ICSC recommends adjustments to the first component, base salaries, each year to align with changes to U.S. civil service base salaries. *For example,*³⁷ ICSC calculated that U.S. civil service base salaries, including the impact of tax changes, increased 1.37 percent on 1 January, 2014 and recommended that the UN base salary scale increase 1.37 percent on 1 January, 2015. To set post adjustments, an

³⁴ *Ibid.*

³⁵ UN, "Report of the International Civil Service Commission for the year 2014", General Assembly A/69/30, United Nations, New York, 19 August, 2014, p.8

³⁶ International Civil Service Commission: Statute and Rules of Procedure. New York: United Nations; 1987 (document ICSC/1/Rev.1), Article 17.

³⁷ Emphasis is mine.

additional salary component intended to equalize purchasing power, ICSC calculates the cost of living in each duty station. ICSC monitors changes in inflation, exchange rates, and other factors, and updates post adjustments periodically to reflect those changes. ICSC conducts surveys of UN employees and collects data on prices at least once every five years to ensure that post adjustments reflect the cost of several categories of expenditures relative to New York City, such as goods and services, housing, and medical insurance. Additionally, ICSC calculates the margin, or percentage difference, between UN and U.S. civil service salaries each year. If this process shows that the margin has fallen below 110 or exceeded 120, ICSC can recommend changes to bring UN salaries within that range.³⁸

The UN is guided by the Noblemaire Principle in setting salaries for professional staff at the Secretariat, as well as other UN common system organizations. In practice, since its inception in 1945, the UN has based salaries for its professional employees on salaries for the U.S. national civil service.³⁹ The United States enacted a salary freeze for U.S. civil service employees in 2010; base salaries and locality pay remained at 2010 levels until 31 December, 2012. However, in 2011, Secretariat professional employees in New York received an increase in their cost-of-living adjustment which increased their salaries. In December 2012, the General Assembly decided to temporarily freeze the cost of living portion of UN salaries for employees.

Though in a Congressional Report issued from research conducted by the United States, Government Accountability Office (GAO) in 2013⁴⁰ found that the

³⁸ United States Government Accountability Office, "UN Compensation United Nations Should Clarify the Process and Assumptions Underlying Secretariat Professional Salaries", Report to Congressional Requesters, United States Government Accountability Office, GAO-13-526, 29 May, 2013, p.2

³⁹ *Ibid.*, Professional staff members are recruited internationally and typically perform work that is analytical, evaluative, conceptual, or creative, and requires at least a bachelor's degree. The UN also employs general service staff members who are recruited locally, such as messengers, clerks, typists, secretaries, and administrative support staff.

⁴⁰ *Ibid.*, The Researchers reviewed how compensation for UN employees is determined and to compare salaries and benefits for UN Secretariat employees and U.S. civil service employees. In this report, we examine (1) how the UN sets salaries for Secretariat professional staff; (2) how the UN compares its employees' salaries with U.S. civil service salaries, including the assumptions underlying its process; and (3) how benefits and allowances provided to UN employees compare with benefits and allowances provided to U.S. civil servants. They determined how the UN sets salaries for Secretariat professional staff, they reviewed relevant documents from the UN's International Civil Service Commission (ICSC) and interviewed ICSC officials and officials from the UN Secretariat's budget office. They also determined how the UN compares its employees' salaries with U.S. civil service salaries, we analyzed ICSC's annual reports and other documents

margin between UN and U.S. civil service salaries has increased over the past 10 years, and ICSC's process for calculating this difference and its underlying assumptions lack clarity. ICSC data show that the margin was 116.9 in 2012, up from 109.3 in 2002.⁴¹ GAO found that ICSC has developed a six-step process for comparing salaries using various assumptions about the populations included in their calculation. While the US Government Accountability Office found that ICSC makes reasonable assumptions when calculating the margin, GAO analysis showed that making different assumptions changes the results, from as low as 105.2 up to 126.7 for 2012. However, ICSC's presentation of this margin calculation to member states lacks clarity in that it does not adequately describe the process and its underlying assumptions. While ICSC has documented specific steps of the margin calculation, it was found that the ICSC has generally not documented the process as a whole.

The UN Secretariat provides benefits that are similar to U.S. civil service benefits, as well as allowances that are similar to those provided to U.S. civil service employees serving overseas. The UN offers its staff various benefits, including retirement and health and life insurance benefits, that are similar to

showing the calculation of the difference between UN employee and U.S. civil service salaries, and replicated some parts of their process using UN and U.S. data. The Congressional Researchers reviewed relevant documentation and interviewed ICSC officials to assess the reliability of the data and determined that they were sufficiently reliable for the purposes of reviewing ICSC's margin calculation process. Following that, they interviewed ICSC, UN, and member-state officials about ICSC's calculation in order to compare benefits and allowances provided to UN employees with benefits and allowances provided to U.S. civil servants. They analyzed documents from ICSC and other UN divisions, as well as documents from the U.S. Office of Personnel Management (OPM) and the Department of State (State). They also interviewed UN, OPM, and State officials about employee benefits and allowances. The report focuses on the compensation of UN Secretariat employees at the professional level, although professional employees of other common system organizations generally receive the same or similar salaries and posted in New York for 6 months, effective from 1 August, 2012, to 31 January, 2013. (When the 6-month freeze ended on 1 February, 2013, UN Secretariat employees in New York received an increase in their cost-of-living adjustment, which resulted in an almost two percent increase in their salaries).

⁴¹ *Ibid.* The results of ICSC's annual calculations show that the margin, or percentage difference, between the average salaries of UN employees in New York and those of U.S. civil service employees in Washington, D.C., increased from 109.3 in 2002 to 116.9 in 2012. ICSC calculates the margin each year to compare UN with U.S. salaries and to ensure that any changes to the post adjustment for New York do not result in a margin outside of the approved range of 110 to 120 percent, while generally aiming for a 5-year average of 115 percent. ICSC presents the results of the margin calculation, along with any recommendations for salary adjustments, to the General Assembly in its annual reports. Since the last increase in U.S. civil service base salaries and locality pay in January 2010, ICSC's reported margin has increased from 113.3 in 2010 to 116.9 in 2012, due to changes in the post adjustment for UN employees in New York. According to ICSC officials, they have not recommended that the General Assembly freeze UN salaries because the margin has not exceeded 120. Nevertheless, the General Assembly decided in December 2012 to freeze the implementation of the updated New York post adjustment for 6 months.

those offered to U.S. civil service employees. The UN offers more generous leave benefits to its employees than the U.S. civil service. The UN also provides allowances such as grants for education and rental subsidies to its employees. Eligibility for these allowances depends on each employee's unique circumstances, which makes it difficult to compare UN allowances to U.S. civil service allowances. However, U.S. civil service employees serving overseas are eligible for some similar allowances as well.

8 CONCLUSION

It has been observed in different quarters that while the Noblemaire Principle is simple to state, it has neither been definitely rendered, nor decoded to the intellectual satisfaction of all concerned and its application raises a host of complexities. The ICSC brought to the fore those complexities in application of Noblemaire Principle as regards the salaries of international civil servants as it has conducted the expert work necessary to devise methodology for dealing with them and to formulate solutions but because of the divergence of views, these solutions have never been acceptable to all the interested parties since the inception of the ICSC even where evidence is abundant that the United States Civil Service salary scale regarded as the best and for which is the benchmark for relying on the Noblemaire Principle is already short of the salaries paid by the UN to international staff. It also observed at a point that some countries were providing supplementary payments to their nationals to induce them to work for the United Nations. This means that the UN salary levels were not competitive especially at the most senior levels. ICSC decided after a 1976 study that a change in the comparator was not required.⁴² It decided to keep the matter under review and to develop methodology for future comparisons.⁴³

⁴²The ICSC in 1975 having reviewed alternatives, including regional and other international institutions, ICSC reaffirmed that the Noblemaire principle continued to be valid for the determination of Professional salaries, but could not reach a consensus as to the manner of its application. In 1982 the ICSC again after a review saw "no viable alternative to the continued use of the Noblemaire principle". ICSC again examined the application of the Noblemaire principle in 1994-1996, "the total compensation levels of the German Federal Civil Service were found to be superior to those of the current comparator" [+10.5%]. "The actual process of changing comparators is a complex one with implications for pensions, the currency of record, the location of the base of the UN remuneration system and related issues". "In view of the difficulties experienced to date in conducting studies of the highest-paid national civil service, it may be necessary to develop alternative strategies for application of the Noblemaire principle". (See also ICSC/43/R.8 and A/50/30, Chapter III). (See FICSA Council, above note 7, Item 8.)

⁴³ Mohsen Bel Hadj Amor, above note 23, at pp.13-14.

As pressure grew from staff to keep pace with soaring inflations the ICSC decided in the 1990s to review the salaries of UN Staff as set by the age long Noblemaire Principle and to proceed with a study comparing the national civil service of the Federal Republic of Germany and the United States, data collected did not indicate a need to change the comparator. In the mid 1990s after a review of the methodology for the comparison of total compensation in national government, the Commission conducted another comparison study at which time it found that the total compensation of the German National Civil Service was somewhat greater than that of the United States Federal Civil Service. Again the Commission concluded that it was not opportune to change the comparison to that of the German National Civil Service especially as that service was in the process of fundamental change. The Noblemaire Principle is however under a continuing review and the report or findings of the review are never implemented. It has acquired or will ever command the spontaneity of compliance enjoyed by the Pythia Oracle of Delhi which is infallible.⁴⁴

Though despite the infallible nature of the Noblemaire Principle, it is to be pointed out that suggestions have been offered for a number of useful alternative strategies for scaling the salaries of International Civil Servants viz: the use of the salary scale of members of foreign services, World market rates, 1971-1972 and 1982 averaging several national civil services, 1971-1972 and 1982 Regional salary scales, The private sector of the best paying Member State or group of Member States, International commodity or industrial institutions (e.g. OPEC), other international institutions (e.g. IBRD, IMF, OECD), other international organizations as comparators or reference guides to competitiveness, private sector of country with highest pay levels, combination of public and private sectors in a country or group of countries with highest pay levels, highest non-diplomatic expatriate civil service, modifying the margin range to reflect fully comparator expatriation benefits should be applied with time.⁴⁵

⁴⁴See Obiora Chinedu Okafor, "The African System on Human and Peoples Rights, Quasi-Constructivism, and the Possibility of Peacebuilding within African States", *International Journal of Human Rights*, Vol.8, No. 4, 2004, p.423.

⁴⁵ None of which has ever been accepted by the ICSC. (See FICSA Council, above note 7, Item 9).