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FORMER AID EMPLOYEE WHO TRANSFERRED TO ILO UNDER THE PROVISIONS OF 5 U.S.C. 3581-3584 AND WHOSE PRESENT PERIOD OF EMPLOYMENT WITH ILO EXPIRES DECEMBER 15, 1977, MAY NOT RETAIN REEMPLOYMENT RIGHTS AND OTHER ENTITLEMENTS IF THIS PERIOD IS EXTENDED SINCE U.S. TERMINATED ITS MEMBERSHIP IN ILO ON OR ABOUT NOVEMBER 5, 1977. STATUTE AUTHORIZED THESE ENTITLEMENTS ONLY FOR EMPLOYEES TRANSFERRED TO INTERNATIONAL ORGANIZATIONS IN WHICH U.S. PARTICIPATES.

REEMPLOYMENT RIGHTS - TERMINATION OF U.S. PARTICIPATION IN INTERNATIONAL ORGANIZATION:

BY LETTER DATED NOVEMBER 25, 1977, THE ASSISTANT SECRETARY FOR INTERNATIONAL ORGANIZATION AFFAIRS, DEPARTMENT OF STATE, REQUESTS OUR OPINION AS TO WHETHER, IN VIEW OF THE TERMINATION OF THE UNITED STATES MEMBERSHIP IN THE INTERNATIONAL LABOR ORGANIZATION (ILO), A FORMER EMPLOYEE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, WHOSE PRESENT PERIOD OF EMPLOYMENT WITH ILO EXPIRES ON DECEMBER 15, 1977, MAY BE GRANTED AN EXTENSION OF HIS EMPLOYMENT WITH ILO (FOR APPROXIMATELY ANOTHER YEAR, WE UNDERSTAND) WITHOUT LOSING THE REEMPLOYMENT RIGHTS AND OTHER ENTITLEMENTS AUTHORIZED BY 5 U.S.C. SEC. 3582. BECAUSE OF THE IMPORTANCE OF THE WORK IN WHICH THIS EMPLOYEE IS ENGAGED, THE STATE DEPARTMENT FAVORS THE EXTENSION, BUT UNDER NO CIRCUMSTANCES DOES IT WISH TO EXPOSE HIM TO ANY RISK OF LOSS OF HIS RIGHTS AND BENEFITS.

REEMPLOYMENT RIGHTS FOR FEDERAL EMPLOYEES AFTER SERVICE WITH AN INTERNATIONAL ORGANIZATION ARE PROVIDED FOR IN SUBCHAPTER IV OF CHAPTER 35, TITLE 5, UNITED STATES CODE. 5 U.S.C. 3581 (3) DEFINES "INTERNATIONAL ORGANIZATION" FOR THE PURPOSES OF SUBCHAPTER IV AS "A PUBLIC INTERNATIONAL ORGANIZATION OR INTERNATIONAL-ORGANIZATION PREPARATORY COMMISSION IN WHICH THE GOVERNMENT OF THE UNITED STATES PARTICIPATES." 5 U.S.C. 3582 SETS FORTH THE RIGHTS OF FEDERAL EMPLOYEES WHO TRANSFER TO SUCH AN ORGANIZATION. SUBSECTION (A) PROVIDES THAT AN EMPLOYEE WHO TRANSFERS TO AN INTERNATIONAL ORGANIZATION WITH THE CONSENT OF THE HEAD OF HIS AGENCY IS ENTITLED TO CERTAIN RIGHTS AND BENEFITS PERTAINING TO RETIREMENT, LIFE INSURANCE, COMPENSATION FOR WORK INJURIES, AND ANNUAL LEAVE. SUBSECTION (B) PROVIDES THAT SUCH AN EMPLOYEE IS ENTITLED TO BE REEMPLOYED IN THE AGENCY FROM WHICH HE TRANSFERRED IF - (1) HE IS SEPARATED FROM THE INTERNATIONAL ORGANIZATION WITHIN 5 YEARS OR ANY EXTENSION THEREOF, OR WITHIN A SHORTER PERIOD NAMED BY THE HEAD OF THE AGENCY, AND (2) HE APPLIES FOR REEMPLOYMENT NOT LATER THAN 90 DAYS AFTER SEPARATION. THIS SUBSECTION ALSO PROVIDES THAT UPON REEMPLOYMENT AN EMPLOYEE IS ENTITLED TO THE RESTORATION OF HIS SICK LEAVE ACCOUNT AND TO AN EQUALIZATION ALLOWANCE IF THE PAY AND CERTAIN OTHER MONETARY BENEFITS HE RECEIVED FROM THE INTERNATIONAL ORGANIZATION ARE LESS THAN THE AMOUNT HE WOULD HAVE RECEIVED IF HE HAD BEEN DETAILED RATHER THAN

TRANSFERRED.

ON NOVEMBER 1, 1977, AT A NEWS CONFERENCE AT THE WHITE HOUSE, SECRETARY OF LABOR F. RAY MARSHALL READ A STATEMENT OF THE PRESIDENT WHICH WAS AS FOLLOWS:

"TWO YEARS AGO, THE UNITED STATES GAVE OFFICIAL NOTICE THAT WE WOULD LEAVE THE INTERNATIONAL LABOR ORGANIZATION UNLESS CORRECTIVE MEASURES WERE TAKEN TO RESTORE THAT ORGANIZATION'S COMMITMENT TO ITS ORIGINAL PURPOSES. BECAUSE SUCH MEASURES HAVE NOT BEEN TAKEN, I DIRECT THAT UNITED STATES MEMBERHSIP IN ILO BE TERMINATED. THE UNITED STATES REMAINS READY TO RETURN WHENEVER THE ILO IS AGAIN TRUE TO ITS PROPER PRINCIPLES AND PROCEDURES."

WE UNDERSTAND THAT, AS A RESULT OF THIS DIRECTION BY THE PRESIDENT, THE UNITED STATES MEMBERSHIP WAS TERMINATED ON OR ABOUT NOVEMBER 5, 1977. SEEMS CLEAR TO US THAT AT THAT TIME THE ILO CEASED TO BE AN "INTERNATIONAL ORGANIZATION" WITHIN THE PURVIEW OF SUBCHAPTER IV OF CHAPTER 35. THEREFORE, IN OUR VIEW, ANY ACTION SUBSEQUENT TO THE TERMINATION DATE TO EXTEND THE ILO EMPLOYMENT OF A FORMER UNITED STATES EMPLOYEE WOULD NOT BESTOW OR CONTINUE ANY OF THE ENTITLEMENTS GRANTED BY THAT SUBCHAPTER, SINCE THESE BENEFITS APPLY ONLY TO THOSE WHO TRANSFER TO INTERNATIONAL ORGANIZATIONS IN WHICH THE GOVERNMENT OF THE UNITED STATES PARTICIPATES. WHEN THE UNITED STATES HAS TERMINATED ITS MEMBERSHIP IN SUCH AN ORGANIZATION, WE KNOW OF NO BASIS FOR CONSIDERING THE EXTENSION AS A PART OF, OR AS RETROACTIVE TO THE DATE OF, THE ORIGINAL TRANSFER FOR THE PURPOSE OF PRESERVING THE ENTITLEMENTS ACQUIRED AT THAT TIME. MOREOVER, IT APPEARS TO US THAT ANY EXTENSION AT THIS TIME WOULD BE INCONSISTENT WITH THE POLICY ENUNCIATED IN THE PRESIDENT'S ANNOUNCEMENT.

ACCORDINGLY, IT IS OUR OPINION THAT THE REEMPLOYMENT ENTITLEMENTS THIS EMPLOYEE HAS UNDER THE PROVISIONS OF 5 U.S.C. 3582 WOULD NOT CONTINUE IN THE EVENT HIS PERIOD OF EMPLOYMENT WITH ILO IS EXTENDED BEYOND DECEMBER 15, 1977.