



# General Assembly

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Agenda item 136  
**Joint Inspection Unit**

## **Staff-management relations within the United Nations**

### **Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly his comments and those of the United Nations System Chief Executives Board for Coordination on the report of the Joint Inspection Unit entitled “Staff-management relations within the United Nations” (see A/67/136).



*Summary*

The report of the Joint Inspection Unit entitled “Staff-management relations within the United Nations” identifies and promotes the conditions that would further staff-management relations at all levels in the United Nations Secretariat, its duty stations and the separately administered organs, funds and programmes, tribunals, United Nations University, peace operations and political missions on the basis of the principles and texts agreed to by the Member States.

The present note reflects the views of organizations of the United Nations system on the recommendations made in the report. The views of the system have been consolidated on the basis of inputs provided by member organizations of the United Nations System Chief Executives Board for Coordination, which welcomed the report and supported some of its conclusions.

## I. Introduction

1. The objective of the report of the Joint Inspection Unit, entitled “Staff-management relations within the United Nations”, which was prepared following suggestions by representatives of management and staff, was to identify and promote the conditions that would further staff-management relations at all levels in the United Nations Secretariat, its duty stations, and the separately administered organs, funds and programmes, tribunals, United Nations University, peace operations and political missions on the basis of the principles and texts agreed to by the Member States.

2. The review found that the implementation of the principles of staff-management relations, as established from a legal and political point of view, is far from equally satisfactory within the various entities and suggested that it is problematic at all levels of staff-management interaction. The report notes that effective staff-management relations require, from both sides, the willingness to participate in discussions in good faith and a proper understanding of the issues at stake, the latter point being closely tied to necessary training in staff-management relations. It observed that in a number of joint bodies, including the Staff-Management Committee (SMC), the only Secretariat-wide joint (staff-management) negotiating body, some agreements on human-resources-related matters are the outcome of negotiations, which demonstrates the existence of *de facto* collective bargaining. The report subsequently proposes the explicit acknowledgement of this concept for the joint negotiation bodies and calls upon the General Assembly to recognize the application of the relevant instruments of the International Labour Organization (ILO) in this regard to United Nations staff. It also suggests a series of concrete improvements to SMC.

## II. General comments

3. The organizations of the United Nations welcome the report. They thank the Joint Inspection Unit for providing useful analysis and recommendations that highlight avenues for improving staff management. The organizations within the purview of the report look forward to facilitating and supporting further discussion on the implementation of the recommendations at the Staff-Management Coordination Committee (SMCC).

4. While most organizations agree that the report provides a general description of staff-management relations, they comment that it does not sufficiently reflect the positive and constructive relationship between staff and management that currently prevails, although they note examples in the report of excellent staff-management relations in some of the organizations. They look forward to sharing best practices and lessons learned on facilitating excellent staff-management conditions throughout the organizations of the United Nations system.

5. In addition, the organizations note that the report gives surprisingly detailed recommendations on how SMCC should function in the future. In particular, the references to “negotiations” and to “collective bargaining” are not, in the view of most organizations, grounded in the Staff Regulations of the United Nations and Staff Rules, as quoted in annex I to the report. For example, regulation 8.2 clearly refers to the role of the joint staff-management machinery as advisory and

rule 8.1 (h) refers to “consideration and comment” in the context of the role of staff representatives in reviewing administrative instructions and directives.

6. Moreover, the issue of delegation of authority is, in the view of the organizations, far too wide to be considered solely in the context of staff-management relations. The organizations highlight the differences within the United Nations system, in particular in the specialized agencies, and therefore a distinction should be made between agencies, funds and programmes that fall into this category and other organizations where such delegation is less formalized. In this regard, the organizations take note of paragraph 53, which refers to uncertainties in the regime for the delegation of authority and suggests that clarification of this matter should be one of the main tasks of the SMCC Legal Adviser. While the organizations support clarifying any uncertainties in the current regime for the delegation of authority, such a task would fall within the purview of the Secretary-General rather than the SMCC Legal Adviser.

7. The United Nations and the organizations included in the report also commented on whether the Secretary-General has the obligation to “consult” or “negotiate” with staff on human resources matters. This issue is mentioned in paragraphs 64 to 68 of the report. In paragraph 65, reference is made to the use of the word “shall” in staff regulation 8.1 (a): “The Secretary-General shall establish and maintain continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies.” From this provision, the Joint Inspection Unit report asserts in paragraph 65 that “the said regulation 8.1 made the end-product of the discussions ‘a bilateral decision, i.e. an agreement,’ hence, following its reasoning, ‘negotiation’ is appropriate”. This point appears to reflect the view of the Joint Inspection Unit that the General Assembly has committed the Secretary-General to make decisions in human resources matters only after an agreement has been reached with staff representatives through a process of mandatory negotiation.

8. The United Nations considers such a view inconsistent with the clear language of the relevant Staff Regulations of the United Nations and Staff Rules, as well as with Article 97 of the Charter. The participation of staff in resolving issues relating to staff welfare, as envisaged in regulation 8.1, does not require that decisions on human-resources matters must be taken on a bilateral basis by the Secretary-General together with staff. Indeed, regulation 8.2 and rule 8.2 (c) expressly provide that the role of joint staff-management machinery is to provide advice and recommendations to the Secretary-General. The method by which the joint staff-management machinery formulates its advice and recommendations (whether through negotiation, discussion, consultation or agreement) does not give rise to any legal obligation on the part of the Secretary-General to negotiate with staff and obtain their agreement before taking a decision on issues relating to staff welfare.

9. Moreover, the United Nations (and the agencies included in the report) note that under Article 97 of the Charter, the Secretary-General is the chief administrative officer of the Organization and has the ultimate responsibility for all aspects of the work of the Organization, including its human-resources management. The authority of the Secretary-General therefore cannot be circumscribed by requiring him to obtain the agreement of staff before taking decisions on issues relating to human-resources management and staff welfare.

10. The United Nations and the agencies studied in the report also note that table 1, after paragraph 28, contains examples where staff perceived that there was a failure to consult staff representatives prior to taking a decision on personnel matters. The organizations would like to highlight that staff federations participate fully in meetings of the Human Resources Network of the High-level Committee on Management of the United Nations System Chief Executives Board for Coordination. In addition, the staff federations entertain a dialogue with the organizations during the formal sessions of the High-level Committee meetings.

11. More specifically, however, for a number of years, both the Coordinating Committee for International Staff Unions and Associations of the United Nations System (CCISUA) and the Federation of International Civil Servants' Associations (FICSA) have been very active observers (and participants) in meetings of the Inter-Agency Security Management Network (IASMN). Both staff federations also participate in some of the IASMN working groups in order to provide input at the earliest stages into policy impacting the United Nations security management system. The Field Staff Union (FSU) is not a member of either CCISUA or FICSA, but is a member of the United Nations International Civil Servants Federation (UNISERV), a third staff federation. UNISERV to date has never requested participation in IASMN meetings where policy issues are discussed.

12. Furthermore, the United Nations and its organizations note that the Organization has been very active in addressing not only the annual staff assemblies of CCISUA and FICSA, but also the annual meeting of the Field Staff Union, during which time is allotted for staff to engage in dialogue directly with the Under-Secretary-General for Safety and Security on a number of security issues. The issue of staff participation on security management teams is raised repeatedly and the United Nations has always been consistent in supporting such participation, where feasible, without providing a blanket authorization for it. In addition, the United Nations has on many occasions consistently promoted an open exchange of information between staff and the Department of Safety and Security on security-related issues. The report therefore presents a skewed picture by ignoring the present facts.

13. The United Nations and the agencies concerned in the report observe that its recommendations rely upon mutually agreed understanding between staff representatives and management, using terms such as "available and necessary", "easy" and "frequent" that are subjective in nature. In addition, by apparently advocating for a stronger role for SMCC, the report suggests moving from a principle of consultation to one of negotiation. The recommendations therefore appear contrary to the vast experience of the United Nations and its funds and programmes, and does not factor in the risks or potentially negative impact on a wider diverse and dynamic United Nations system. The principle of negotiation and bargaining within the context of the United Nations and its funds and programmes presents a complex challenge given the diverse governance structures. In this regard, in view of the number of staff representative bodies and the number and size of entities within the United Nations common system, it would be impractical to establish specific measures for each organizational context.

### III. Specific comments on recommendations

#### Recommendation 1

**The Secretary-General should provide all Member States with the reports of all forthcoming SMC sessions, including their annexes, and should further facilitate the arrangement of an informal meeting on an annual basis for the SMC President to present to the Member States the report of each session, including reporting on the status of the implementation of agreements reached in previous SMCC sessions.**

14. The organizations of the United Nations note that under current arrangements there is no legislative provision for the kind of relationship envisaged under this recommendation between SMC and Member States. It is the prerogative of the General Assembly to decide whether it wishes to have informal meetings with or receive reports from SMC.

#### Recommendation 2

**The Secretary-General and the Executive Heads of the separately administered organs and programmes, acknowledging the official status of staff representative bodies and elected staff representatives, should facilitate their access to all available and necessary means of communication with the staff-at-large, as agreed in SMCC XXXII (2011).**

15. The organizations of the United Nations under review in the report of the Joint Inspection Unit support and welcome this recommendation, and are in the process of updating their internal policies and guidelines to implement the decisions emanating from SMCC XXXII (2011), including facilitating access for staff representative bodies and elected staff representatives to all available and necessary means of communication with the staff-at-large. For organizations not bound by decisions made in SMCC or SMC, the facilitation of access to all available and necessary means of communication with staff representative bodies and elected staff representatives is based on the Staff Regulations of the United Nations and Staff Rules approved by the General Assembly.

#### Recommendation 3

**Once an agreement has been reached in SMC on fair and harmonized criteria for determining facilities and release for performing staff representation functions, the Secretary-General and the executive heads of the separately administered organs should issue revised administrative issuances in this regard; until then, ST/AI/293 and A/C.5/50/64 should be fully implemented and considered as minimal provisions.**

16. The organizations of the United Nations support and welcome this recommendation, and will continue to make efforts to adapt their administrative issuances in this regard.

#### Recommendation 4

**The Secretary-General and the executive heads of the separately administered organs and programmes should allot appropriate resources to their respective human resources units to develop (preferably jointly with staff representatives)**

**and implement training activities on staff-management relations-related issues, and strongly encourage the participation of newly appointed managers and newly elected staff representatives in such training.**

17. The organizations of the United Nations welcome this recommendation. They note, however, that there is currently an SMC working group considering the issues raised by the recommendation. Given the limited resources available, it would be more realistic to integrate training activities on staff-management relations-related issues into existing training rather than allocating additional resources.

### **Recommendation 5**

**The General Assembly should request the Secretary-General to present to it for its approval, an appropriate staff regulation confirming the recognition of the right of the United Nations staff to collective bargaining, as outlined in the annex to its resolution 128 (II). The Secretary-General and the executive heads of the separately administered organs and programmes should apply to the staff of their respective entities the standards and principles emerging from the relevant International Labour Organization instruments, particularly the Declaration on Fundamental Principles and Rights at Work (1998).**

18. The organizations note this recommendation, which is directed at legislative bodies. The General Assembly establishes the conditions of service for United Nations staff through the approval of the Staff Regulations of the United Nations. To date, the Assembly has not made any decision to include the right to collective bargaining in the conditions of service. The Assembly has, however, provided for the broad participation of staff representatives in discussions on human resources issues, by promulgating staff regulation 8.1, which requires the Secretary-General to “establish and maintain continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies”.

19. In relation to the Right to Organize and Collective Bargain Convention (ILO Convention No. 98), which is referred to in paragraph 127 and footnotes 107 and 108 of the Joint Inspection Unit report, it is worth noting that article 6 specifically states that the Convention “does not deal with the position of public servants engaged in the administration of the State”. Therefore, it cannot be said to be applicable, even by analogy, to international civil servants. Hence, it is up to the General Assembly to consider its position on whether establishing the right to collective bargaining would be in line with its sole authority to approve the budget of the Organization, pursuant to Article 17 of the Charter of the United Nations.

20. With respect to references to apply the standards and principles of relevant ILO instruments, in particular, the Declaration on Fundamental Principles and Rights at Work (1998), the organizations note that the Declaration calls upon ILO members to, inter alia, eliminate all forms of forced or compulsory labour and to effectively abolish child labour. The organizations question the relevance of these principles in the context of United Nations employment matters.

**Recommendation 6**

**The Secretary-General and the Executive Heads of the separately administered organs and programmes should ensure to the staff representative bodies of their respective entities an easy and frequent access to all appropriate levels of management, including at the highest level, through both formal and informal channels.**

21. The organizations of the United Nations support and welcome this recommendation. They note that access to all levels of management is already granted. In addition, the organizations continue to remind management of its obligation to consult staff representatives on any issue that would have an impact on their working conditions. In this regard, they will continue to ensure that channels of communication remain open and accessible.

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