

**Staff–Management relations in the United Nations specialized
agencies and common system**

Prepared by

Gérard Biraud

Joint Inspection Unit

Geneva 2012



United Nations

JIU/REP/2012/10
Original: ENGLISH

**Staff–Management relations in the United Nations
specialized agencies and common system**

Prepared by

Gérard Biraud

Joint Inspection Unit



United Nations, Geneva 2012

EXECUTIVE SUMMARY

The report on Staff–Management relations (SMR) in the United Nations specialized agencies and common system follows-up on and complements the 2011 report on the same theme within the United Nations only, published as JIU/REP/2011/10 and A/67/136. Like the 2011 report, this report was prepared following suggestions made by the Under-Secretary-General (USG) for Management, the Human Resources Network (HRN) of the United Nations Chief Executives Board for Coordination (CEB), and a number of Staff Representatives (SRs) and builds upon and complements the findings of JIU/REP/2011/10. Good and effective interaction between the management of the United Nations common system organizations under review and their staff is critical for the delivery of high-performance services. The objective of the report is to analyse the processes by which specific actors contribute to harmonious and effective SMR for the benefit of their respective organizations as well as the system of salaries and allowances common to all the organizations and associate entities of the United Nations common system. The scope of the report is limited to the processes and mechanisms of SMR, rather than on substantive human resources (HR) issues, which will nonetheless be referred to for illustrative purposes.

It is expected that the implementation of the recommendations contained in the report by their traditional addressees – the legislative or governing bodies (GBs) of the organizations concerned and the executive heads (EHs) – complemented by consideration of some suggestions to the elected leadership of the staff representative bodies (SRBs) will help to improve the work of various established joint staff–management bodies (JBs) and contribute to removing obstacles in view of more effective SMR for the overall benefit of the organizations under review.

Main findings, conclusions and recommendations

Over 100 hours of interviews, complemented by a review of the responses to the questionnaire and supplementary documentation provided by SRs and management representatives (MRs) of the organizations concerned lead the Inspector to conclude that the quality of SMR between 2009-2011 was highly uneven across the United Nations system entities reviewed, varying significantly from one organization to another. Indeed, SMR quality was poor with serious challenges in some organizations like ITC, ITU, UPU and WIPO, while SMR quality ranges from good to excellent in other organizations, including IAEA, IMO, UNAIDS, UNIDO, UNWTO and WMO. In six organizations (FAO, ICAO, ILO, UNESCO, WFP, WHO), SMR quality was generally average, with structural and procedural challenges that needed to be addressed.

In most of the entities reviewed, the ongoing global financial crisis has not helped SMR. The urgency of Member States to limit their financial commitments to the organizations has created considerable tension between staff-at-large, who are increasingly wary of job cuts, and a management that finds itself between a rock and hard place in trying to meet the demands of the Member States while minimizing the impact on job losses.

The present report contains nine recommendations: three to the governing bodies (GBs) of the organizations concerned, and seven to their executive heads (EHs). The report also outlines some useful practices and suggestions addressed to the management and SRBs of the organizations reviewed. The report's major findings and corresponding recommendations are as follows:

- (a) In spite of some efforts towards regularization undertaken by some organizations, the proportion of “non-staff” categories of workers has grown steadily to represent a significant component of the labour force of the whole United Nations system. Most of the time, non-staff workers are part of the organizations' permanent labour force, but they lack job security. In most organizations, non-staff are not entitled to a pension nor in-service and/or after-service health insurance benefits, and lack recourse to staff grievance procedures and other mechanisms for internal justice. It is clear from the Staff Rules and Regulations (SRRs) of the organizations and

the statutes of the SRBs that their significant presence is yet to translate into noticeable changes – both in industrial relations and governance – within the United Nations organizations and their common system of remunerations and allowances. The time has come for all concerned – EHs, organs of the common system and SRBs – to reflect accordingly on how best to adjust to the changing reality, guarantee a fair minimum level of protection and rights for such staff and work towards formalized and effective non-staff–management relations. In this regard, recommendation 1 calls upon EHs to report on the number of persons under each category of non-staff contractual arrangements and the corresponding rights, benefits, costs and duties that apply to these respective categories, in their reports to their legislative or governing bodies on HR issues.

(b) SMR become severely damaged when the principle of freedom of association and the right of SRBs to organize are impeded through alleged censorship of their right to use their organization’s broadcast facilities. To ensure that such acts are not repeated, recommendation 2 calls upon the EHs of the organizations concerned to actively facilitate the access of SRs to all available and necessary means of communication with staff-at-large, without any censorship.

(c) The Inspector was struck by the repeated assertions of fear that were expressed by many interviewees – particularly those with precarious contractual statuses – to either engage publicly in any staff union or action or take on a representational role. Fear of retaliation by management in United Nations organizations reveals a serious lack of trust and sends a troubling message. SRs are entitled to specific protections in the performance of their representational functions, as recognized both by international administrative tribunals – ILO Administrative Tribunal (ILOAT), United Nations Dispute Tribunal (UNDT), the former United Nations Administrative Tribunal (UNAT) – as well as in the SRRs of several, but not all, the organizations concerned. UNAT has clearly stated that: “It is an indispensable element of the right of association that no action should be taken against a member of the staff on the ground that he is or has been an officer or representative of the Staff Association or has otherwise been active in the Association.” To formally guarantee the protection of SRs, recommendation 3 calls upon EHs to adopt the appropriate rules in organizations where they are missing.

(d) Most organizations have a formal joint staff–management body (JB) dedicated to SMR issues where staff-management (S-M) dialog takes place periodically at the highest level on issues impacting staff welfare and their conditions of service. While few JBs are defined explicitly as negotiating fora, real negotiations do take place in some, as can be measured through the number of relevant agreements reached and subsequently implemented. While informal platforms for S-M dialogue are both useful and necessary, they should complement rather than replace formal platforms (such as JBs). Significant concerns with regard to management accountability can and do arise when formal platforms either do not exist or are under or improperly utilized. In this regard, recommendation 4 calls upon EHs to establish JBs dedicated to SMR issues in organizations where that function is not fulfilled.

(e) Interviews with current and former field-based staff reveal two major findings: (i) a near universal sentiment that the interests of headquarters (HQ)-based staff are – intentionally or unintentionally – prioritized over the concerns of field-based staff; and (ii) a general lack of awareness among field-based staff, particularly national staff, of SRRs, that is of their rights and responsibilities as United Nations staff. Fostering SMR necessitates paying more attention to the concerns of and challenges faced by field staff. SRs in HQ with better access to senior management need to engage more substantively with field staff in order to adequately represent their concerns. Management, for its part, must respect its obligation to staff members and to the organization in terms of upholding regulations, rules, policies and due process, and must ensure that all staff – irrespective of duty station – understand their rights and responsibilities. In this regard, recommendation 5 calls for the GBs of organizations with a field presence to mandate their EHs to detail challenges faced by field staff when reporting on HR issues.

(f) The interviews and responses to the questionnaires reveal a near universal acknowledgement by both staff (SRs) and management representatives (MRs) of the usefulness of training on SMR issues for newly elected SRs and newly appointed managers. In this regard, recommendation 6 calls upon EHs to allot the appropriate resources to their respective HR services to develop (preferably jointly with SRs) and implement training activities on SMR-related issues and strongly encourage the participation of newly appointed managers and newly elected SRs in such training.

(g) While there is little doubt about the value of SMR-related training, the usefulness of two other tools for fostering SMR, outlined in this report, namely Recognition/Cooperation agreements (R/CA) and staff surveys, is contingent upon (a) whether the R/CA contains new elements that are of added value (e.g. clear provisions for facilities and release to perform staff representational functions – a feature currently missing in some organizations reviewed); and (b) whether a survey has been designed in full impartiality, with the participation of both SRs and MRs. Where organization-sponsored surveys are conducted, it should not prevent SRs from carrying out their own staff surveys (e.g. to gauge staff priorities and concerns or to solicit feedback on SRB positions). With regard to maximizing the usefulness of staff surveys, recommendation 7 calls upon EHs to undertake comparable staff surveys at regular intervals of two to four years, to be conducted by an independent external entity with the participation of SRs and MRs in the survey development and interpretation process.

(h) Staff federations play a vital role in SMR at the common system level, as they are entrusted with carrying forward the concerns of their constituent SRBs before the International Civil Service Commission (ICSC), the CEB, the High-level Committee on Management (HLCM) and the HRN. Despite the clear recognition of their role in the deliberations of the common system entities, the current practice of having only the employer organization of a SR representing a federation to pay entirely for his/her release time while other organizations concerned pay nothing is both unfair and inconsistent, as the federation represents the interests of all staff in its constituent organizations before the common system. Logic holds that if representational functions deserve to be compensated at the organization level – where enabling texts often exist, the same reasoning is fully applicable to staff representation at the common system level. Recommendation 8 subsequently calls upon the legislative or governing bodies (GBs) of the organizations concerned to mandate their EHs to prioritize the development of a burden-sharing formula and agreement with regards to financing all costs associated with the representational function of officials of staff federations recognized in the ICSC statutes and rules of procedures.

(i) Last, but certainly not least, the vital role of Member States, as the decisive authority in the determination of the staff regulations and conditions of service in most organizations, cannot be over-emphasized. Despite their crucial role in determining various aspects affecting staff welfare, formal written provisions guaranteeing SRBs the right to present their views to the Member States via the legislative/GB meetings currently do not exist in at least seven organizations. While SRBs are clear about not being interested in having Member States micro-manage SMR, they are generally unanimous on the view that a basic level of due diligence and better understanding by Member States of their concerns would certainly foster SMR. This is particularly true in a period of budgetary constraints when staff expect Member States to exercise the necessary restraint when it comes to devising proposals that could either degrade conditions of service or “incentivize” the use of non-staff contracts or other precarious contractual modalities for core functions. In this respect, recommendation 9 calls upon the legislative or governing bodies (GBs) of organizations where formal provisions do not yet exist to adopt regulations granting SRBs the right to present statements during the meetings of relevant internal organs dealing with issues related to staff welfare.

CONTENTS

Executive summary		iii
Abbreviations		ix
<i>Chapter</i>	<i>Paragraph</i>	<i>Page</i>
I. INTRODUCTION	1-11	1
A. Background	1	1
B. Objectives and scope	2-4	1
C. Methodology	5-11	2
II. CHALLENGES IN DISTINGUISHING BETWEEN STAFF AND NON-STAFF	12-27	4
A. Diversification of staff, emergence and development of “non-staff”	12-15	4
B. Recognition of similar facts in civil society and related recommendation by the ILO	16-18	5
C. United Nations approach	19-20	6
D. Renewed approaches by specialized agencies	21-23	7
E. Non-staff-management relations	24-27	7
III. LEGAL FRAMEWORK FOR STAFF-MANAGEMENT RELATIONS	28-33	9
A. Staff Regulations and Rules (SRRs) defining the nature of the relationship	28	9
B. Basic principles and reference texts	29-31	9
C. Statutes of the Staff Representative Bodies (SRBs)	32	10
D. The way forward.....	33	11
IV. STAFF REPRESENTATIVE BODIES (SRBS): WHAT THEY ARE AND HOW THEY WORK	34-40	12
A. Raison d’être.....	34-35	12
B. SRB governance: authority of statutes and provisions.....	36-37	12
C. Electoral System.....	38-39	12
D. SRB membership	40	13
V. CONDITIONS FOR STAFF-MANAGEMENT RELATIONS	41-56	14
A. Role of executive heads.....	41	14
B. Facilities for the accomplishment of representation functions	42-48	14
B.1. Secondment of posts.....	43	14
B.2. Time release.....	44-47	15
B.3. Office space and equipment	48	16
C. Freedom of communication.....	49-50	16
D. Protection of staff representational functions.....	51-56	17
VI. OVERALL QUALITY OF STAFF-MANAGEMENT RELATION	57-77	19
A. Quality of communication, information and consultation.....	58-59	20
B. Formal communication (joint bodies) and informal contacts.....	60-65	21
C. Possible challenges pertaining to SMR in field offices	66-76	22
D. The way forward.....	77	25

VII. TOOLS FOR FOSTERING SMR.....	78-95	26
A. Training	78-84	26
B. Staff-Management Recognition/Cooperation Agreements (R/CAs)	85-90	27
B.1. Common content of Recognition/Cooperation Agreements.....	86	28
B.2. Additional provisions for specific R/CAs	87-89	29
B.3. Added value of Recognition/Cooperation Agreements	90	29
C. Staff Surveys	91-93	30
D. The way forward	94-95	30
VIII. STAFF-MANAGEMENT RELATIONS AND ETHICS	96-113	32
A. Ethics related services	96-100	32
B. Ethics and codes of conduct	101-102	33
C. Staff Regulations and Rules (SRRs).....	103-104	33
D. Standards of conduct	105-111	34
E. From principles to practice	112	36
IX. STAFF-MANAGEMENT RELATIONS AND THE COMMON SYSTEM.....	113-134	37
A. Mandates	113	37
B. SMR at ICSC.....	114-122	37
C. Quality of SMR within ICSC and CEB bodies	123-128	39
D. Partners' views as conveyed to the JIU	129-131	41
E. Addressing existing built-in imbalances	132-134	41
X. STAFF FEDERATIONS	135-148	43
A. Background, objectives, history, areas of responsibility	135-136	43
B. Governance	137-139	43
C. Federations and the field	140	44
D. Financing issues	141-146	44
E. The way forward: cooperating and converging federations	147-148	45
XI. ACCESS TO AND ROLE OF MEMBER STATES IN SMR	149-153	47
XII. CONCLUSIONS	154-162	49
A. Lessons learned	154-159	49
B. The way forward	160-162	50
ANNEXES		
I. Governance structure of SRBs		51
II. Electoral System of SRBs		52
III. SRB Membership and Electoral Participation		53
IV. Facilities and release for staff representational functions		54
V. Staff surveys conducted in each organization		55
VI. Overview of action to be taken by participating organizations on the recommendations of the Joint Inspection Unit		56

ABBREVIATIONS

ACC	Administrative Committee on Coordination
AMRO	WHO Regional Office for the Americas
AP-in-FAO	Association of Professionals in FAO
CCAQ	Consultative Committee on Administrative Questions
CCISUA	Coordinating Committee for International Staff Unions and Associations of the United Nations system
CEB	United Nations System Chief Executives Board for Coordination
COSA	World Bank Country Office Staff Association
DaO	United Nations Delivering as One Initiative
DG	Director General
DSA	Daily Subsistence Allowance
EB	Executive Board
EC	European Commission
EGM	Extraordinary General Meeting
EH	Executive Head
EMRO	WHO Regional Office for the Eastern Mediterranean
ExCom	Executive Committee
FAO	Food and Agriculture Organization
FICSA	Federation of International Civil Servant Associations
FUNSA	Federation of United Nations Staff Associations
GATT	General Agreement on Tariffs and Trade
GB	Governing Body
GS	General Services category staff
HLCM	United Nations System High Level Committee on Management
HQ	Headquarters
HR	Human Resources
HRN	CEB Human Resources Network
IAEA	International Atomic Energy Agency
IAEA-SA	IAEA Staff Association
IASMN	Inter-Agency Security Management Network
ICAO	International Civil Aviation Organization
ICAO-SA	ICAO Staff Association
ICSAB	International Civil Service Advisory Board
ICSC	International Civil Service Commission
ICSE	International Classification of Status in Employment
ICT	Information and Communication Technology
IFAD	International Fund for Agricultural Development
IGO	Inter-Governmental Organization
ILC	International Labour Conference
ILO	International Labour Organization
ILO-SU	ILO Staff Union
ILOAT	International Labour Organization Administrative Tribunal
ILS	International Labour Standards
IMF	International Monetary Fund

IMF-SAC	IMF Staff Association Committee
IMO	International Maritime Organization
IMO-SU	IMO Staff Union
IOM	International Organization for Migration
IOM-SA	IOM Staff Association
ITC	International Trade Centre
ITC-SC	ITC Staff Council
ITU	International Telecommunication Union
ITU-SC	ITU Staff Council
ITU-SU	ITU Staff Union
JAC	Joint Advisory Committee
JB	Joint Staff-Management Body
JIU	Joint Inspection Unit of the United Nations System
JNC	Joint Negotiating Committee
LSA	Local Staff Association
MR	Management Representative
MS	Member States
OECD	Organization for Economic Co-operation and Development
OECD-SA	OECD Staff Association
OIOS	Office of Internal Oversight Services
OSCE	Organization for Security and Cooperation in Europe
P	Professional category staff
PAHO	Pan American Health Organization
PBAC	Programme, Budget and Administration Committee
PEMS	Performance Evaluation Management System
PO	Participating Organization
PSA	Professional Service Agreement
R/CA	Recognition / Cooperation Agreement
R/PA	Recognition and Procedural Agreement
SA	Staff Association
SC	Staff Council
S-M	Staff-Management
SMC	Staff Management Committee (since 2012)
SMCC	Staff-Management Coordination Committee (until 2011)
SMR	Staff Management Relations
SR	Staff Representative
SRB	Staff Representative Body
SRR	Staff Regulations and Rules
SSA	Special Service Agreement
ST/AI	United Nations Secretariat Administrative Instruction
ST/SGB	Secretary-General's Bulletin
SU	Staff Union
TCDC	Technical Cooperation among Developing Countries
TCCT	Technical Cooperation among Countries in Transition
UDHR	Universal Declaration on Human Rights
UGSS	FAO-WFP Union of General Services Staff

UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNAIDS-SSA	UNAIDS Secretariat Staff Association
UNAT	United Nations Administrative Tribunal (until June 2009) then United Nations Appeals Tribunal
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNDT	United Nations Dispute Tribunal
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNESCO-ISAU	International Staff Association of UNESCO
UNESCO-STU	UNESCO Staff Union
UNHCR	United Nations High Commissioner for Refugees
UNIDO	United Nations Industrial Development Organization
UNIDO-SU	UNIDO Staff Union
UNISERV	United Nations International Civil Servants' Federation
UNJSPB	UN Joint Staff Pension Board
UNOG	United Nations Office in Geneva
UNWTO	World Tourism Organization
UNWTO-SA	UNWTO Staff Association
UPU	Universal Postal Union
UPU-IBSA	UPU International Bureau Staff Association
USG	Under-Secretary-General
WB	World Bank
WB-SA	World Bank Staff Association
WFP	World Food Programme
WFP-PSA	WFP Professional Staff Association
WHO	World Health Organization
WHO-HQ-SA	WHO Headquarters Staff Association
WIPO	World Intellectual Property Organization
WIPO-SA	WIPO Staff Association
WMO	World Meteorological Organization
WMO-SA	WMO Staff Association
WPRO	WHO Western Pacific Regional Office

I. INTRODUCTION

A. Background

1. The Joint Inspection Unit (JIU) undertook from July 2011 to late 2012 a review of SMR in the United Nations specialized agencies and common system. The review, as announced in A/65/34 (para. 118), **builds upon and complements the findings of JIU/REP/2011/10** (Staff-Management relations within the United Nations), which had been included in the programme of work of the JIU following suggestions made by the USG for Management, the HRN of the CEB, and a number of SRs. While JIU/REP/2011/10 was initially envisaged to cover the entire United Nations common system, it had to be split in two parts due to the complexity, diversity and specificity of SMR-related challenges facing the United Nations and its associate entities.¹ The present review covers 12 United Nations specialized agencies,² as well as IAEA, ITC,³ UNAIDS and WFP, including the bodies and mechanisms through which their staff (SRs) and management (MRs) representatives also relate and interact at the “common system” level.

B. Objectives and scope

2. The starting point is **the premise that good and effective interaction between the management of the United Nations common system organizations under review and their staff, is critical for the delivery of high-performance services.** From this perspective, over 100 hours of interviews (conducted in parallel with SRs and MRs) convinced the Inspector that the quality of SMR varies significantly from one organization to another. The objective of the present review is to analyse the processes by which specific actors contribute to harmonious and effective SMR for the benefit of their respective organizations and the system of salaries and allowances common to all organizations and associate entities of the United Nations **system, i.e. the “common system”**. The scope of this report is limited to the processes and mechanisms of SMR, rather than on substantive HR issues, which are mentioned only for illustrative purposes. **It does not address the pension component of the common system.**

3. It identifies SMR practices in the organizations under review, the federations of international civil servants to which SRBs are affiliated, comparable inter-governmental organizations (IGOs)⁴ and the ICSC, with regard to its role in SMR. Specific attention is paid to SMR in some field offices, due to frequently raised concerns that the interests of HQ-based staff are – intentionally or unintentionally – prioritized over the concerns of field-based staff. The role of legislative/governing bodies (GBs) in SMR, as the ultimate authority in determining Staff Regulations as well as any decisions impacting staff welfare that carry financial implications, are also analysed.

4. The report also reviews existing SRRs governing SMR in the organizations as well as international labour norms and standards, and identifies good practices and practical tools to enable both SRs and MRs to carry out their functions effectively for the benefit of their organizations. Genuine dialogue

¹ As such, the scope of the first review had to be adjusted to cover only the entities participating in the Staff Management Coordination Committee (SMCC) which included the United Nations Headquarters, Offices away from the Headquarters, Regional Commissions, United Nations Funds and Programmes, Peacekeeping operations, and United Nations Tribunals.

² FAO, ICAO, ILO, IMO, ITU, UNESCO, UNIDO, UNWTO, UPU, WIPO, WHO and WMO.

³ ITC was formally established as the General Agreement on Tariffs and Trade (GATT) International Trade Centre in 1964. In 1967, UNCTAD and the GATT proposed a joint GATT/UNCTAD center, which after endorsement by the United Nations General Assembly, became a common initiative in January 1968. ITC staff members are fully bound by the United Nations’ SRRs as long as they are not contradicting its specific features.

⁴ Seven comparable inter-governmental organizations (IGOs) interviewed to learn about their best practices regarding SMR include: European Commission (EC), International Fund for Agricultural Development (IFAD), International Organization for Migration (IOM), International Monetary Fund (IMF), Organization for Economic Cooperation and Development (OECD), Organization for Security and Cooperation in Europe (OSCE) and the World Bank (WB).

among SRs and MRs, as well as accountability on the part of both, are vital for effective SMR. With regard to SRs, the review analyses the existing mechanisms for S-M interaction and suggests measures for improving them. With regard to MRs, it identifies practices/processes that can bring about greater clarity regarding the level of authority delegated at the various levels of management and formal staff representational structures. It is expected that the JIU's recommendations to the traditional addressees (legislative/GBs or EHs), complemented by guidance to the elected leadership of the SRBs, will improve the work of various established JB and contribute to removing obstacles in view of more effective SMR for the overall benefit of the organizations under review.

C. Methodology

5. Given that the present report addresses situations in which actors on either "side" (staff and management) defend distinct interests, it highlights points of agreement and divergences and acknowledges the impact of personalities on SMR. It is based primarily on perspectives from both staff and management in an attempt to capture the nature of their relations as neutrally and objectively as possible. Thus, a symmetrical approach was utilized and the views of both SRs and MRs in all the organizations reviewed were captured via parallel questionnaires and interviews, in full impartiality and with guarantees of confidentiality.

6. In accordance with the internal standards, working procedures and guidelines of the JIU, the methodology followed in preparing this report included a preliminary desk review, 88 interviews, of which 24 were conducted by videoconference,⁵ and an in-depth analysis thereof. In addition, 102 tailored questionnaires were sent to MRs and SRBs of the JIU participating organizations (POs) reviewed, selected comparable agencies and SRB federations, with response rates from management and SRBs in POs of 100 per cent and 97 per cent, respectively. Most participants responded in the context of the entire organization (or, in certain cases, specific categories of staff represented by some SRBs). Regarding WHO, the HQ staff association as well as the staff associations in three regional offices (PAHO/AMRO, EMRO, WPRO) responded on their own initiative. The Inspector also conducted interviews with the Coordinating Committee for International Staff Unions and Associations (CCISUA), the Federation of International Civil Servant Associations (FICSA), the ICSC Chairperson and Vice-Chairpersons and legal experts on labour relations.

7. As part of the review, in addition to organizations in Geneva, the Inspector conducted interviews in Bern (UPU), Paris (UNESCO, OECD) and Hanoi, meeting with SRs and MRs in the country offices of various POs (FAO, ILO, UNESCO, UNIDO, WHO) and UNAIDS, as well as comparable organizations (IFAD, IMF, IOM, WB) to better gauge the situation of SMR in the field. He also met with the Office of the United Nations Resident Coordinator in Hanoi, as well as with the Hanoi Federation of United Nations Staff Associations (FUNSA).⁶

8. The Inspector sought to inquire and reflect on the main aspects among staff and management which may influence the quality of SMR, taking into account all perceptions and without excluding any stakeholder. JIU Inspectors have statutorily⁷ a purely advisory role; they do not have the power to take decisions nor the right to "interfere in the operations of the services they inspect;" they may, however, "propose reforms or make recommendations" to participating organizations.

9. The present report compares the general conditions for SMR across the 12 United Nations specialized agencies, as well as at IAEA, ITC, UNAIDS and WFP, outlining common challenges and good practices as well as their interaction at the level of the common system. The report also outlines

⁵ SRs and MRs in several JIU participating organizations (IAEA, ICAO, IMO, UNIDO, WFP) and comparable IGOs (IFAD, IMF, WB) headquartered outside Geneva had to be interviewed via video-conference.

⁶ Section VI.C details the challenges observed in Hanoi as well as those that may exist in other field offices – based on the overall views and experiences of staff serving in Hanoi, including those who had served previously in other field offices.

⁷ Art.5.5 of the Statute of the JIU, (res. 31/192, annex) downloadable from www.unjiu.org.

some useful practices and suggestions addressed to management and SRBs. SRBs should discuss them and determine which are applicable and can be implemented in their respective organizations. By virtue of freedom of association, staff of each organization may conceive, establish, criticize, reform and democratically improve their representative bodies as they see fit. No management nor third party, neither GBs nor Member States, can take decisions for them in this area, as such intervention would be considered an interference and is forbidden under ILO labour standards (Committee on Freedom of Association).

10. In accordance with article 11.2 of the JIU statute, this report has been finalized after consultation among the Inspectors in order to test its conclusions and recommendations against the collective wisdom of the Unit. To facilitate the handling of the report, the implementation of its recommendations and monitoring thereof, annex VI contains a table indicating whether the report is submitted for action or for information to the GBs and EHs of the organizations reviewed. Due to limitations in the length of the report, specifics on SMR in each organization will be posted on the JIU website (www.unjiu.org) as a complement to the report 2012/10.

11. The Inspector wishes to express his deep appreciation to all those who assisted him in the preparation of this report, particularly the management and staff representatives who participated in the interviews, sent comments and willingly shared their knowledge and expertise in a climate of trust.

II. CHALLENGES IN DISTINGUISHING BETWEEN STAFF AND NON-STAFF

A. Diversification of staff, emergence and development of “non-staff”

12. First of all, the Inspector would like to address a major issue that progressively emerged during the research. Regarding staff–management relations (SMR) in the organizations, which categories of workers are considered as “staff” by management and SRBs? The United Nations system organizations employ many people who are not considered as “staff,” but are often collectively referred to as “non-staff.” While the terms “staff member” or “official” are used consistently by the International Labour Office and other organizations to refer to “officials,” further to article VI (sects. 18 ff.) of the 1947 Convention on the Privileges and Immunities of the Specialized Agencies,⁸ “approximately 45,000 non-staff personnel located around the globe,”⁹ including more than 26,500 in the United Nations Secretariat¹⁰ alone, work more or less regularly for the United Nations system organizations, but are not considered as staff. This is despite efforts to regularize the situation of staff, undertaken by some organizations (e.g. ILO in 2000, and more recently UNAIDS), with a limited number of conversions to staff contracts for non-staff personnel clearly performing staff functions.

13. ILO has clarified the closely related notion of “employee” for its constituents,¹¹ but overall, the lines between “staff” and “non-staff” have become increasingly blurred over the last two decades, as organizations confront the conflicting pressures of increasing mandates and decreasing resources due to the zero-growth concept. As a result, organizations have taken some leeway with established common requirements through the invention and extension of various kinds of contractual arrangements, giving rise, in particular, to numerous “consultants,” who are not individual external contractors as the name suggests. The category “non-staff personnel” is an umbrella for holders of all kinds of contracts,¹² some of which obviously do not and could not be staff functions, while others are labelled as “non-staff” for reasons that are less clear. However, it is clear that the employment situation of “non-staff personnel” is typically more precarious than that of staff or officials, and this influences the way they are perceived (or not) by managers and SRs as possible subjects or actors in SMR.

14. A recent JIU review¹³ highlighted the need to define “staff” and “non-staff” categories, and dedicated an entire chapter¹⁴ thereto. The Inspector fully concurs with the analysis and findings of that review which made the following vital observations in its executive summary:

“Consultants and other non-staff categories of personnel are becoming an important part of the workforce of the organizations. However, policies and regulations do not always provide clear criteria for the use of these personnel and the implementation of these policies is a matter of

⁸ Observation made by ILO management to the JIU in the context of the present review.

⁹ A/65/373, Report of the Secretary-General, para 175.

¹⁰ 16,480 in field operations and 10,080 not based in the field, according to the report of the Secretary-General A/66/224, para 2.

¹¹ See, for instance, the Resolution concerning the International Classification of Status in Employment (ICSE) adopted by the Fifth International Conference on Labour Statisticians (January 1993), para 8. (http://www.ilo.org/global/statistics-and-databases/standards-and-guidelines/resolutions-adopted-by-international-conferences-of-labour-statisticians/WCMS_087562/lang--en/index.htm)

¹² Special Service Agreements (SSAs), Individual Contractor Agreement, Service Contract, Government Secondees, Supernumerary Contracts, Individual Contractor Contract, External Collaboration Contract, United Nations Volunteer, Individual Consultant, Individual Specialist, Contractual Service Agreement, Consultant, Casual Labor, Visiting Expert, Professional Service Agreement (PSA) Subscriber, National Project Personnel, National Correspondent, South/South Subscriber, Technical Cooperation among Developing Countries (TCDC) / Technical Cooperation among Countries in Transition (TCCT) Expert, Editors, Proofreaders, Teachers, Contractual Service Agreement, Agency Field, Ministry Staff, National Staff, Gratis Personnel” type I and II.

¹³ Review of individual consultancy in the United Nations system, JIU REP/2012/5, paras 15-19.

¹⁴ Ibid., chap. II: Non-staff personnel in the United Nations system, paras. 15-39.

concern from the perspective of fair and socially responsible employment practices, particularly when the individuals are working for extended periods of time under short-term non-staff contracts. The pressure for delivery under inadequate funding and inflexible staffing models coupled with permissive non-staff policies and the lack of oversight lead organizations to use non-staff contractual modalities excessively.

Introducing different statuses for similar types of work into the workforce which are no longer subject to a common set of rules and regulations may have negative consequences in terms of employment practices, reputation of organizations and coherence of the workforce. Current practices create precarious statuses not fully aligned not only with the United Nations values but also with international labour principles. This situation is not sustainable, neither for the individuals nor for the organizations which are facing a dramatic change in their workforce composition. There is a need that organizations monitor and assess the use of non-staff personnel regularly and introduce mitigating measures against risks.”

15. Do ICSC and CEB provide a useful definition and/or criteria for “staff member”? Can they confirm the above-mentioned legal criterion related to the 1947 Convention on Privileges and Immunities and its general application? Does a worker’s formal submission to the SRRs of an United Nation system organization serve as the ultimate criterion? Indeed, this appears to be the case for the United Nations.¹⁵

B. Recognition of similar facts in civil society and related recommendation by the ILO

16. The aforementioned situation in international organizations is derived partly from HR management concepts and practices in the field of business administration that were conceived for application in the private sector, and subsequently imported into the international public service without sufficient discernment. As a result, lessons could be learned from the International Labour Conference (ILC) analysis of situations in the countries of its constituents (governments, employers, workers) with conditions similar to those in the United Nations system.

17. In its Employment Relationship Recommendation, 2006 (No. 198), which outlines helpful albeit non-binding recommendations to Members with regard to relevant national policies and measures, the ILC refers to “the difficulties of establishing whether or not an employment relationship exists in situations where the respective rights and obligations of the parties concerned are not clear, where there has been an attempt to disguise the employment relationship, or where inadequacies or limitations exist in the legal framework, or in its interpretation or application.” It notes that “situations exist where contractual arrangements can have the effect of depriving workers of the protection they are due” and recognizes “that there is a role for international guidance to Members in achieving this protection, and the recommended policy should be the result of consultation with the social partners and should provide guidance to the parties concerned in the workplace.”¹⁶

18. In the opinion of the Inspector, since the diagnosis could easily apply to various organizations of the United Nations system, the content of the recommendation could also inspire the common system authorities and the EHS of the organizations in their present work on this issue. As a first step towards clarification, the proposed criteria and indicators could be utilized to recognize whether an employment relationship exists, based on facts rather than labels, a principle that is followed by tribunals in many countries.¹⁷

¹⁵ “The terms and conditions applicable to staff members and the principles of administrative law, which underpin the Staff Regulations and Staff Rules and the administrative framework of the United Nations, do not apply to non-staff personnel.” (Report of the Secretary-General A/65/373, para 179).

¹⁶ See Employment Relationship Recommendation, 2006 (No. 198), preamble.

¹⁷ Ibid., para 13 - Members should consider the possibility of defining in their laws and regulations, or by other means, specific indicators of the existence of an employment relationship. These indicators might include:

C. United Nations approach

19. Since non-staff situations could induce cases for grievances and arbitration against the United Nations, the General Assembly, in its resolution 64/233 (para. 8 (b)), requested the Secretary-General to provide “an update concerning the exact number of persons other than staff personnel working for the United Nations and the funds and programmes under different types of contracts, including individual contractors, consultants, personnel under service contracts, personnel under special service agreements and daily paid workers.” In 2011, the CEB issued an insightful volume of 130 pages, extending the analysis to most of the United Nations system organizations. Only the authority of a draft was retained after a number of negative reactions following its publication. Statistics for non-staff personnel in the present report have consequently been taken from other sources, including replies to JIU questionnaires.

20. In the same resolution 64/233, the General Assembly further requested the Secretary-General,

“with regard to remedies available to the different categories of non-staff personnel, to analyse and

compare the respective advantages and disadvantages, including the financial implications, of the options set out below, bearing in mind the status quo concerning dispute settlement mechanisms for

non-staff personnel” (para. 9). In response, important work (in progress) has been undertaken, as

developed and reflected in successive reports by the Secretary-General on the administration of justice at the United Nations, as well as in a number of concept papers.¹⁸

(a) the fact that the work: is carried out according to the instructions and under the control of another party; involves the integration of the worker in the organization of the enterprise; is performed solely or mainly for the benefit of another person; must be carried out personally by the worker; is carried out within specific working hours or at a workplace specified or agreed by the party requesting the work; is of a particular duration and has a certain continuity; requires the worker's availability; or involves the provision of tools, materials and machinery by the party requesting the work;

(b) periodic payment of remuneration to the worker; the fact that such remuneration constitutes the worker's sole or principal source of income; provision of payment in kind, such as food, lodging or transport; recognition of entitlements such as weekly rest and annual holidays; payment by the party requesting the work for travel undertaken by the worker in order to carry out the work; or absence of financial risk for the worker.

¹⁸ Related reports of the Secretary-General and resolutions of the United Nations General Assembly:

- Report A/65/373: paras 165-183 - “recourse mechanisms for the non-staff personnel” where various alternative solutions are envisaged for a decision by the General Assembly; and Annex IV - Contracts and rules governing relationships between the United Nations and the various categories of non-staff personnel;

- Res 65/251: para 55 - requests to provide more concrete information (...), taking into account the different categories of non-staff personnel concerned;

- Report A/66/275: para 190 - the Secretary-General presents a proposal for recourse mechanisms for non-staff personnel outlined in annex II of the report (Outline of Rules for Expedited Arbitration Procedures under United Nations contracts with consultants and individual contractors: concept paper);

- Report A/66/224: paras 2-3 - the Office of the United Nations Ombudsman and mediation services confirms its willingness to address non-staff personnel cases;

- Resolution 66/237: paras 38-40 - the General Assembly:

D. Renewed approaches by specialized agencies

21. In 2011, ICAO implemented a detailed policy on the procedures and conditions of employment for non-staff, i.e. consultants and individual contractors. The policy documents the procedures and circumstances for the recruitment of non-staff, as well as their applicable working conditions and establishes a common understanding between the organization and non-staff. The policy also contains a provision for the settlement of disputes. These developments have ensured that the needs of this contingency workforce, accounting for 10 per cent of total ICAO personnel (one of the lowest percentages among United Nations systems organizations) have been adequately met.

22. Additionally, following the submission of the draft of this report to stakeholders for comments, WHO HR Director shared with the JIU a constructive Information Paper on non-staff contractual arrangements.¹⁹ In the Inspector's opinion, this paper could be useful to other organizations. Recalling WHO Director General's (DG) recent statement that "rather than hiring new staff for programmes that are expanding, the more effective use of consultants or other types of non-staff contracts will be considered," and elaborating on a working group on non-staff, set up with HQ and regional representatives, the paper addresses a number of issues pertaining to contractual options, as well as the criteria and conditions for their application. It describes the nature of work under staff contractual arrangements compared to work under non-staff contract types and the contract types currently available for non-staff contractual arrangements in WHO; recalls the paramount conditions for hiring non-staff, emphasizing the absolute necessity to consider the difference in the nature of the work performed, as well as the necessity to take into account specific safeguards to protect the interests of the Organization; and establishes precise criteria that will facilitate monitoring and oversight on the use of non-staff contracts.

23. WHO also shared a "non-staff" comparison table outlining for each existing type of non-staff contract, the nature of the work and specifications defining the type of work; the responsible entity; entitlements of the person concerned; a comparison with other non-staff contracts (major similarities and differences); and a comparison with regular temporary contracts (major similarities and differences).

E. Non-staff–management relations

24. While (more or less) part of the organizations' "permanent" labour force, non-staff usually consider themselves as being in a more precarious situation, legally²⁰ and contractually, than staff.

"38. Requests the Secretary-General to submit to the General Assembly at the main part of its sixty-seventh session a report providing:

(a) A proposal for implementing the proposed mechanism for expedited arbitration procedures for individual contractors and consultants provided in annex II to the report of the Secretary-General on administration of justice, including the cost implications for various aspects of the proposal;

(b) An analysis of the policy and financial implications in the event that individual contractors and consultants covered by the proposed expedited arbitration procedures were to be permitted access to mediation under the informal system;

39. Also requests the Secretary-General to submit to the General Assembly at the main part of its sixty-seventh session a report on access to the system of administration of justice for different categories of non-staff personnel who are not covered under the dispute resolution mechanism proposed in annex II of the report on administration of justice;

40. Further requests the Secretary-General to include in the report requested in paragraph 39 above information on measures to be made available with regard to the informal and formal aspects of the system of administration of justice in order to assist such non-staff personnel to address disputes that may arise;"

¹⁹ Prepared in cooperation with the organization's Department of Contract and Procurement Services and presented to the meeting of WHO's Global Staff Management Council (9-12 October 2012, Washington D.C.).

²⁰ In general, non-staff lack recourse to staff grievance procedures and other mechanisms for internal justice. This has been the subject of discussions between the Membership and the Secretariat of the United Nations.

This is particularly so at a time when some organizations are in the process of decreasing (or have already decreased) the number of staff posts. Most of the non-staff workers are not entitled to pension and health insurance benefits comparable to those of staff members.²¹ Thus, they naturally perceive themselves as being more vulnerable and consequently, may avoid participating in staff meetings and other SRB-related activities, statement or candidatures for staff elections, which could be perceived negatively by their supervisor(s) or the HR service, particularly in cases of tense SMR. This report notes the criteria used in the afore-mentioned CEB “draft report”, according to which the fact that a worker is subject to the SRRs of his/her organization makes him/her a staff member. In accordance with these criteria, several categories of workers serving the United Nations common system organizations fall outside the scope of “staff.” More work is needed in this area.

25. An analysis of the SRRs of the entities concerned shows some clarity as to who constitutes a staff member in FAO, IAEA, ILO, IMO, UNESCO, UNIDO, WIPO, WMO (the clearest) and WFP. The situation is less clear or not clear at all in ICAO, ITC (which follows the United Nations SRRs), ITU, UNWTO and UPU. Few staff or management representatives raised the issue of non-staff in the interviews. However, when the issue was raised by the Inspector, many SRs expressed a willingness to represent non-staff, even if their statutes make no explicit provisions for such representation. Some SRs noted that their statutes already covered all employees. This issue will be one of the main topics for discussion within the common system in the coming years, among managers and SRBs in each organization, following further observations and analysis. The Inspector concurs with a FAO management proposal that it would be beneficial if the common system (ICSC, HRN, HLCM) could address the issue of non-staff arrangements and set standards for non-staff contractual arrangements, including the rights and duties of these employees, with a view to harmonization across the United Nations system.²²

26. Member States, already concerned with the debates in the Sixth Committee of the General Assembly, are unlikely to remain silent on the issue given the financial, legal, social and other implications, including the risk of costs associated with litigation/arbitration. The emergence and development of non-staff personnel, albeit substantial, is yet to translate into noticeable changes within the United Nations system organizations and their common system of remunerations and allowances. The implementation of the following recommendation is expected to enhance the accountability of the organizations reviewed by requiring them to formally report on the conditions of service of non-staff.²³

²¹ For more details, see the above-mentioned JIU Report on individual consultancy (JIU/REP/2012/5). Some organizations do make certain provisions for non-staff: for instance, WHO provides insurance to non-staff (SSAs, consultants, Executive Board Members, Members of Expert Committees, Temporary Advisors, Fellows, Interns and Advisors) independently from the Staff Health Insurance.

²² The theme of non-staff contractual arrangements will be part of the JIU programme of work for 2013.

²³ The following are selected comments received from management in some POs in reaction to Rec. 1:
 FAO: “FAO reports periodically to its governing bodies on the composition of its workforce... contractual arrangements and corresponding rights and duties of non-staff are contained in its relevant Manual Sections.”
 IAEA: “the number of consultants is reported to Member States, in the same report as for staffing... the Secretariat will provide to Member States a summary of the conditions that apply to non-staff consultants.”
 UNIDO: “at present it is sufficient that non-staff employees have access to such facilities as the Ethics office, thereby being able to channel grievances. In UNIDO, non-staff employees can also avail themselves of the support and services of the Staff Council and Staff Counselor, if required.”
 WHO: “Since WHA 2012, non-staff figures have been reflected in the HR Annual report (A65*34). We have just issued a draft info/guidance note to be discussed with Regional Personnel Officers of Administration and Finance in Regions, and Legal as to when to use what type of non-staff contracts, checklists included, as well as a definition of the different categories of personnel, functions and skill sets required to meet the needs of the Organization in terms of contractual status.”
 UPU: “This is already partially the case in the HR reports provided to the Council of Administration.”

Recommendation 1

In reporting to their legislative/governing bodies on human resources issues, including on the composition of the labour force, Executive Heads of the organizations under review – who are not already doing so – should report on the number of persons under each category of non-staff contractual arrangements and on the corresponding rights, benefits, costs and duties that apply to the respective categories.

27. With due respect to the principle of freedom of association, it is entirely at the discretion of each SRB to consider whether and how to take into account the concerns and interests of non-staff categories of personnel, and possibly represent them, which may, in turn, necessitate updating of their statutes.

III. LEGAL FRAMEWORK FOR STAFF-MANAGEMENT RELATIONS

A. Staff Regulations and Rules (SRRs) defining the nature of the relationship

28. The legal framework for SMR consists of texts adopted by the organizations that address “staff relations,” and others that have been freely conceived and adopted by SRBs as their statutes or internal law, in accordance with the principle of freedom of association. All the participating organizations (POs) are operating under legally binding Staff Regulations adopted by the Member States represented in their legislative/GBs while Staff Rules are adopted by the EHs, following negotiations or consultations with the SRBs²⁴ (apart from ILO, which has Staff Regulations but not Rules).²⁵ Usually, the staff rules have a section aimed at facilitating SMR.²⁶ The EHs may, after consultations or negotiations (according to the provisions in force and JB concerned), complement these provisions with other administrative issuances focusing on specific issues (e.g. facilities established to allow SRs to perform their official representational function, texts aimed at protecting them from discrimination in relation with their role as SRs).²⁷ In addition to the established legal framework, four organizations and their recognized SRBs have established mutually binding Recognition/Cooperation Agreements (R/CA) (presented in section VII. B.)

B. Basic principles and reference texts

29. While all SRBs noted that there was no formal text in effect in their respective organizations concerning the application of the Universal Declaration of Human Rights (UDHR) or relevant ILO instruments, their SRB statutes typically refer to these texts.²⁸ Depending on their understanding of

²⁴ The following entities are exceptions, deriving their SRRs from the outlined organizations: WFP from FAO (for internationally-recruited staff and locally-recruited GS staff in HQ and liaison offices (considered as outposted HQ); locally-recruited WFP staff in the field are currently administered under the UN SRRs); PAHO and UNAIDS from WHO; and the UN Funds and Programmes and ITC from the United Nations.

²⁵ Article 14.7 on amendments to the ILO Staff Regulations states:

“Subject to the approval of the GB, these Regulations may be amended, without prejudice to the acquired rights of officials, by the Director-General after consulting the Joint Negotiating Committee (JNC). The Director-General shall also amend the Regulations, without prejudice to the acquired rights of officials, and after consulting the JNC, in order to give effect to decisions of the ICSC concerning (1) rates of allowances and benefits (other than pensions, dependency allowances, education grant, home leave, repatriation grant and termination indemnity), the conditions of entitlement thereto, and standards of travel; and (2) the classification of duty stations for the purpose of applying post adjustments; the GB shall be informed of such amendments”.

²⁶ The “comparable” agencies out of the United Nations system also have their own SRRs, including, in some cases, legal, contractual instruments recognizing the importance of staff relations. Examples include: the Agreement on relations between the EC and the Trade Unions and Staff Associations (“Framework Agreement”); SRRs for Officials of IOM; and SRR and “Instructions applicable to the officials of the OECD”.

²⁷ See also JIU/REP/2011/10, Chapter VI, paras 118-131 and Annex I.

²⁸ For example, Art. 2 of the UNAIDS Secretariat Staff Association (USSA) Constitution includes in its purpose “to ensure that the conditions of employment of the staff of the UNAIDS Secretariat conform to (i) generally

the issue, responses from MRs were much more nuanced: some responded “yes,” which probably refers mainly to the practice (= application), and some responded “no,” referring to the notion of official (= formal) recognition. One notable and positive exception was the ILO whose management highlighted the Recognition and Procedural Agreement (RPA) concluded in 2000 between the Office and the ILO Staff Union, which refers to the principles and rights embodied in the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), the Labour Relations (Public Service) Convention, 1978 (No. 151) and article 20 of the UDHR. Other MRs did not respond at all or made allusions or indirect references to similar principles embedded in other texts, such as the ICSC standards of conduct. The following reply underpins the typical situation in the various organizations: “There is no specific legal reference to these documents in the Agency’s Statute, Regulations or Rules. However, the Agency applies these as guiding principles in its management of staff.”

30. The Inspector asked all concerned stakeholders whether the aforementioned texts and the universal principles they contain should be valid only within the national contexts of the 185 ILO Member States adopting them, but not in the context of IGOs like the United Nations common system organizations where staff are not subject to the labour laws of any single State?²⁹ There is a corresponding perception that such principles cannot be legally enforced within the United Nations system entities. Nonetheless, given the universal application of the UDHR to all individuals, they should logically apply to all United Nations workers – “staff” or “non-staff.” A clear formulation in the Staff Regulations of the organizations is needed in this regard so as to move from “de facto” to “de jure” application. Recommendation 5 of JIU/REP/2011/10 addressed to the General Assembly calls precisely for such clarity as concerns the staff of the United Nations and its associate entities.³⁰

31. The same recommendation also proposes that particular consideration be given to the ILO Declaration on Fundamental Principles and Rights at Work, adopted by the ILC in 1998. In this regard, of particular relevance is the principle of freedom of association and the effective recognition of the right to collective bargaining³¹ which reflects and complements “democracy, free choice and the rule of law (...). The observance of these International Labour Standards (ILS) can create an environment that encourages more efficient work organization, innovation and higher productivity. Finally, these standards have the potential to contribute to social peace, thus helping to attract investment and facilitate the adjustment of enterprises to external shocks, such as financial crises.”³² Questionnaire responses received from several MRs, SRs, and staff federations highlight their desire to see the aforementioned principles and rights officially recognized and applied.

C. Statutes of the Staff Representative Bodies (SRBs)

accepted labour standards, particularly those set forth in the Conventions of the ILO.” Another example comes from the statute of FAO-WFP UGSS.

²⁹ ILO employers handbook, 2001, Chapter II, states “In the first place, ILS are addressed to governments. Nevertheless, they are also relevant to **employers** [...] Thus, together with governments and workers, employers are responsible for making ILS and their implementation realistic and meaningful. Only with the active engagement of employers can ILS reflect the balance which they need if they are to meet expectations.”

³⁰ JIU/REP/2011/10, 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 of its resolution 128 (II). The Secretary-General and the EHs of the separately administered organs and programmes should apply to the staff of their respective entities the standards and principles emerging from the relevant ILO instruments, particularly the Declaration on Fundamental Principles and Rights at Work (1998)”.

³¹ In 1978, the ILC applied this concept to the public service by adopting the Labour Relations (Public Service) Convention, 1978 (C151). In this respect, see also the manual on collective bargaining and dispute resolution in the Public Service (ILO Sectoral Activities Department): <http://www.ilo.org/global/industries-and-sectors/public-service/lang--en/index.htm>.

³² Ibid., para 8.

32. In line with the principle of freedom of association and the right to organize, and in accordance with ILO Conventions No. 87 (1948) and No. 98 (1949), SRBs adopt their own statutes, typically through a referendum of the staff-at-large or through the general assembly of the SRB members. According to the respective SRRs, nearly half the SRB statutes in the entities reviewed had to be approved by the EH, in some cases, just to ensure that the charter or the constitution or the statement of objectives was not in conflict with the interests of the organization. This was mandatory for IAEA, ICAO, ITU, UNESCO and UNIDO, but not so for FAO, ILO, ITC, UNAIDS, UPU³³ and WIPO. In a few cases, particularly where multiple SRBs co-exist in a single organization, some additional “rules on the representation of staff”³⁴ may have emerged and have been promulgated, in principle to avoid long protracted conflicts, but with varying consequences, as in the case of ITU. In addition, the EHs and the SRBs of some specialized agencies have signed R/CAs.

D. The way forward

33. The content of chapter VII of JIU/REP/2011/10, entitled “Accountability for all,” is also applicable to the actors involved in SMR in the present report. There is disparity on the extent to which texts adopted by the organization (SRRs) and those adopted by the SRBs (statutes) explicitly stipulate adherence to the fundamental international principles guiding labour relations. Nonetheless, even informal acknowledgement and recognition from both management and staff representatives that the principles enshrined in these texts (UDHR, relevant ILO instruments) should guide their mutual relations, would be an important starting point towards more constructive SMR. Indeed, among the four fundamental principles and rights embedded in the ILO Declaration on Fundamental Principles and Rights at Work, neither child labour nor compulsory labour are relevant issues for the United Nations work environment (as they do not exist), while discrimination in respect of employment and occupation is addressed through respect for diversity – one of the three core values of the United Nations. Thus, only one of the four fundamental principles still needs to be effectively addressed within the United Nations system organizations, namely, the principle of freedom of association and the effective recognition of the right to collective bargaining.

³³ Except concerning the election process of the Chair.

³⁴ See JIU/REP/2011/10, para 78, regarding such rules in the United Nations Office in Geneva.

IV. STAFF REPRESENTATIVE BODIES: WHAT THEY ARE AND HOW THEY WORK

A. Raison d'être

34. An analysis of the statutes of the 20 SRBs in IAEA, ITC, UNAIDS, WFP and the United Nations specialized agencies indicates that their objectives generally encompass safeguarding the rights, privileges, interests and welfare of all staff members; providing/funding/co-funding services and activities of use to staff (e.g. staff counsellors, child-care centres, legal insurance, etc.); collectively or/and individually ensuring full participation of staff in SRBs through developing and advocating common positions on issues that affect them; encouraging staff participation in SRB activities; and furthering cooperation with SRBs in other organizations/entities to promote collective interests.

35. From an individualistic point of view, a SRB could be compared to an insurance company offering to its members some assurance that their acquired rights in their contractual relations with an organization will be defended in many or most circumstances, conditioned only by the quality of the colleagues who will offer their time, knowledge and skills for such goals and who are chosen through a democratic electoral process. As necessary, these SRs will also advise them, on an individual basis, in cases of critical situations at work or difficult conditions of service. Such personal advice amounts sometimes to the work of a real legal counsellor. From a more philosophical point of view, such benevolent functions are a sign of active and natural solidarity among colleagues. From a managerial point of view, such representational functions are official and quite necessary for smooth social dialog on evolving elements of HR management that impact upon staff welfare. Most SRBs refer to themselves as a staff association, while a few consider themselves as a staff union or staff council, as is the case of most SRBs in the United Nations system. The terminology used is makes no corresponding difference as regards SMR quality.

B. SRB governance: authority of statutes and provisions

36. The statute is the constitution and internal law of a SRB. It describes its goals, scope and categories of staff it aims to serve and represent with regard to the organization's EH and senior MRs; and it clarifies both the structure and procedures defining its governance, usually with a two-tier system composed of an executive committee (ExCom) or Staff Council (SC) of 7 to 40 officials, elected by the staff-at-large under some rules to warrant its representativeness in terms of democracy; and a Bureau, typically elected by Council members and comprising a Chair/President, possibly a General Secretary, Vice-President(s) and a Treasurer (see JIU/REP/2011/10, paras 79-87).

37. IAEA, ITC, UNAIDS and all the United Nations specialized agencies (except FAO) have established SRBs which are competent organization-wide (in contrast to the United Nations Secretariat), representing staff in all offices, irrespective of location.³⁵ Such a feature constitutes a major advantage, in practical terms, for the organization and the regular work of a SMR framework; it avoids the difficult task of reconciling the respective interests of various local SRs and a lengthy, complex and costly SMR process, akin to the workings of the United Nations SMCC – a challenge carried forward by its successor, the Staff Management Committee (SMC).

C. Electoral system

38. As defined in their statutes, staff councils (or committees) are supposed to “ensure an equitable representation” of staff-at-large (see JIU/REP/2011/10, para. 76). Thus, depending on the organization, a certain number of positions in the staff council are exclusively reserved for representatives of a specific category of staff (usually Professional (P) and above versus General Service (GS)) as in ICAO, UPU, WHO-HQ, IFAD, or a type of location (e.g. HQ versus away from HQ) as in ILO, UNAIDS and WFP. Sometimes both distinctions are combined, as in ICAO, where

³⁵ The lone exceptions are FAO and WFP where each organization has its SRB exclusively for international professional staff (AP-in-FAO, WFP-PSA), while FAO-WFP UGSS represents HQ and liaison offices based GS staff of the two organizations. Non-HQ national staff, GS and national officers in the two organizations receive no representation under the aforementioned SRBs.

the council consists of six P-category staff and six GS-category staff, one person in each category being from a regional office. In a few organizations, e.g. IAEA³⁶ and UNIDO,³⁷ staff representation is organized through electoral units, a department-based segmentation of the organization. This also prevails for the representation of United Nations HQ staff in New York (see JIU/REP/2011/10, para 85). A useful practice for identifying potential SRs comes from the IMF Staff Association Committee (SAC), where former Committee members proactively reach out to individuals who they feel have the attributes to be good SRs, and encourage them to participate in SAC elections. In order to ensure continuity in representation, in eight SRBs only half of the positions on the SC are up for election at any given time. A good practice comes from IOM, a comparable agency, where the IOM-SA has a two-month transition between elections and entry into office. During this period, both the incoming and outgoing Chairs jointly perform the same role, allowing for a smooth transition. The SRB holds an ordinary general assembly once a year.

39. The governing body (staff council, staff committee or executive committee), henceforth referred to as “the Staff Council (SC),” meets either monthly or every other month in some cases. The executive body elected by the SC (henceforth called the Bureau) comprises four to 10 members who meet between two to four times a month. There is usually a quorum to allow for valid decision-making at each level. To ensure the regular functioning of the SRB, WFP/FAO-UGSS has put provisions in place to address the frequent absence of Bureau members at its meetings. As per its statute “any Executive Committee member who fails, without justified reasons, to attend more than four consecutive ordinary sessions shall be deemed no longer to hold office.” For most of the SRBs compared, the duration of the term is two years, and one year for the SRBs of three organizations (ICAO, UNWTO and UPU). In addition, UNWTO and UNIDO have different term durations respectively for the president and regular council representatives. In 50 per cent of cases, no term limitation is imposed for SRs. For the other 50 per cent, the succession of terms is limited to one, two or three years. However, in these cases, an inactivity time frame is defined by the statutes, after which an SR can again be a candidate for elections.

D. SRB membership

40. Despite a number of unfavorable factors, both external and internal (see annex III), a significant proportion of staff-at-large who are eligible for SRB membership voluntarily choose to be affiliated with a SRB through the payment of dues. The principle of the possibility of affiliation is strongly affirmed in OSCE’s Staff Instruction No. 10/2003: “Freedom of association shall be respected. All staff/mission members have the right to participate or not in the constituency of the Staff Committees/Representatives” (para. 5.1). Dues, which are generally collected through direct payroll deductions with staff retaining the option to either opt in or opt out at any time, are often set by grade and range in scales varying (according to the SRB) from 0.01 per cent to 0.5 per cent of net salary. There are currently two systems allowing “staff members” (as defined by the respective organizations) to become active in the choice of their representatives: (a) where all staff members of an organization are automatically considered as members of a SRB, they can vote to elect members to the SRB governing body and thus contribute to its orientation; (b) where a SRB does not have automatic membership, it must be largely open to all staff members of the organization corresponding to its target constituency (see JIU/REP/2011/10, para. 84) without any other condition, than acceptance of the SRB statutes and payment of individual fees to obtain the right to vote. Additional criteria to measure representativeness include the degree of participation in general elections (see annex III) or referenda, mobilization in periods of crisis by way of direct actions (petitions, demonstrations, etc.)

³⁶ Statutes of the IAEA Staff Association, Chapter X, Article 25 “Each Unit shall consist of members drawn from the same or related organizational services.”

³⁷ Statutes of the UNIDO Staff Union, Chapter IX, Article 25 “The Units shall correspond as far as possible to departments or part thereof on the basis of the organizational chart of the UNIDO Secretariat.”

V. CONDITIONS FOR STAFF–MANAGEMENT RELATIONS

A. Role of executive heads

41. The Inspector found that the attitude of the EH serves as a critical factor in the success or failure of SMR in an organization. **The required competencies** are the realization of the importance of good quality relations with staff; the willingness to have (usually through the HR Director but also directly) regular and frequent dialogue with the Chairperson of the SRB via an open-door policy; and to reply promptly to his/her inquiries are key to furthering quality SMR. Transparency towards Member States on SMR issues is another telling positive indicator. In contrast, a high turnover in the HR Director post; purely official and constrained contacts; filtered town hall meetings; interpretation of any criticism as a personal attack; censorship of SRB communications with staff-at-large; discrete pressure on individuals and reluctance to disclose the state of SMR to Member States (including by the JIU) are symptomatic of challenging SMR.

B. Facilities for the accomplishment of representation functions

42. Considered by ILO standards as an essential part of labour relations in the public service,³⁸ a number of facilities should be provided to SRBs by the administrations of the organizations in order to allow SRs to effectively perform their official³⁹ staff representational functions for the sake of SMR. These include:

- Continuous contact between EHs and SRs to discuss aspects of common interest in HR policy (as stipulated in most Staff Regulations);
- Participation in various committees where staff are represented, with a consultative and sometimes negotiating role, according to the texts (de jure) and/or practice (de facto) through the joint S-M bodies (JBs) involved.

Only a few organizations have promulgated formal administrative issuances or agreements providing for such facilities as secondment of posts, time release, office space and equipment.

1. Secondment of posts

43. Unlike some agencies with financially solvent SRBs that are able to pay for their own support staff (e.g. World Bank-SA and OECD-SA employ seven and four full-time support staff respectively, paid for from their own budgets), most SRBs in the United Nations specialized agencies lack the necessary funding to employ their own staff. Consequently, in addition to providing for the full-time release of elected SRs, a critical contribution by the organization is the allocation of staff, mostly GS staff, dedicated to the administrative tasks necessary for the proper management of the SRB. Their numbers vary from zero (ITC, UPU and UNWTO) to two full-time post (IAEA, IMO and WHO HQ). These posts pertain to the regular staffing table, and as such, the financial and staff rules are applicable to the persons appointed. The seconded individuals should be and usually are chosen freely by the SRBs.

³⁸ Art. 6 of the Labour Relations (Public Service) Convention, 1978 (No. 151) introduces the principle of facilities to be afforded to public employees organizations:

“1. Such facilities shall be afforded to the representatives of recognised public employees' organisations as may be appropriate in order to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.

2. The granting of such facilities shall not impair the efficient operation of the administration or service concerned.

3. The nature and scope of these facilities shall be determined in accordance with the methods referred to in Article 7 of this Convention, or by other appropriate means [i.e. collective bargaining].”

³⁹ See JIU/REP/2011/10, paras 110-114.

2. Time release

44. The second form of participation on the part of the organization to its own social dialogue is by releasing some elected SRB officials from their regular duties in the service of the organization. United Nations Administrative Instruction (ST/AI/293) and document A/C.5/50/64⁴⁰ could serve as references in this regard as they establish some correspondence between the total number of staff members and the total amount of time release granted to SRs. Divergences among organizations appear, both in terms of total time release and its distribution among SRs, either as full-time release or as a reduction in the percentage of normal work time, ranging from 10 to 50 per cent.

45. In order to make comparisons across organizations – as the distribution of time release follows different patterns (e.g., statutory time release for a specific position (e.g. the Chairperson) or a specified number of hours distributed among all SRs) – full-time equivalent (FTE) release is calculated on the basis of 12 months/year, 4 weeks/month and 40 hours/week (see annex IV). Time release is granted to enable the performance of a real, official and necessary service for the organization. Additionally, in order for time release to be concretely realized, **a formal written request must be submitted up the entire hierarchy** (not only to the immediate supervisor) **so as to obtain approval and a decrease in corresponding workload in proportion to the time release granted**. Such a principle would be much easier to apply, without tension, if the releasing units were financially compensated by the organization for work time lost in releasing the SR. This has been accepted so far at FAO, but only as concerns participation in the FAO reform process.

46. The Inspector found that, except in cases of full time release for one person, there are many instances where such a facility is interpreted by supervisors as mere flexibility in working hours, without any real discharge of duties, and the goodwill of the SR to work at night and during weekends is (too) easily presumed with no change in the performance plan of the employee concerned. This may explain why a number of SRBs prefer to request full time release for one official, rather than 50 per cent time releases for two officials (e.g. President and Vice-President), despite the significant advantages of the latter formula which would enable the two officials to:

- Remain engaged in active professional service and continue developing their skills in their field of specialization, including maintaining contacts with their relevant professional networks;
- Continue to benefit from training in their field of specialization;
- Continue to receive annual performance appraisals; apart from FAO,⁴¹ no other organization has formal written provisions for SRs to have their staff representational duties reflected in their performance appraisals. SRs noted that it should be acknowledged that they have been elected by their peers to carry out staff representational functions, and as such, they make a valuable contribution to the organization. In addition to developing a broad range of skills and attaining in-depth knowledge of their organization, their work contributes to the achievement of the organizational goals/mandate and should therefore be recognized. This, in turn, would further encourage others to participate in staff representational activities and help to combat any stigma associated with the role of SRs;
- Further solidarity with staff-at-large (and vice-versa) by sharing their conditions of service while representing them.

⁴⁰ See JIU/REP/2011/10, paras 110-113.

⁴¹ According to FAO-UGSS, FAO has a formal written provision for SRs to have their staff representational tasks reflected in their Performance Evaluation Management System (PEMS). However, this area is not evaluated by any supervisor, only by peers. Additionally, the evaluation does not carry any weight in terms of career development or promotion.

47. It is interesting to note that the SA of OECD, a comparable agency, highlighted the difficulty encountered in identifying staff who were willing to be seconded full-time as SRs, as they feared that their careers would be compromised; they were thus more open to half-time release. Another system which is subject to the same risks as time release is a set number of days given annually to a SRB, which can be freely allocated, according to the needs of their representational work.

3. Office space and equipment

48. Although a SRB's human resources costs account for its principal expenditure, it also requires concrete assets such as office space (for privacy), minimal furniture, computers, printing and public presentation equipment, as well as easy or exclusive access to a conference room that can accommodate Council and Bureau meetings. While some SRBs receive limited (ITC)⁴² or no facilities (UNWTO), most organizations recognize the need for such support and make facilities available in this regard.

C. Freedom of communication

49. Most of the organizations reviewed ensure their SRBs have the necessary means of communication to interact with staff-at-large, by providing access to printing, posting and broadcast (e-mail) facilities, as well as a dedicated space on the organization's Intranet, thereby guaranteeing freedom of communication both in theory (as part of freedom of association and right to organize)⁴³ and practice. The use of the telephone is free of charge in the vast majority of organizations, and on a reimbursement basis only in FAO, WFP and for ITU-SU only; same for the use of photocopiers and printers (on a reimbursement basis in FAO, for ITU-SU and for the printing activities of WFP-PSA).

50. More fundamental to ensure respect for the principle of freedom of association and the right to organize (JIU/REP/2011/10, para. 97 and recommendation 2) is the duty of all organizations to ensure their SRBs the right to use their respective Intranet and e-mail broadcast system, as most already do, **without any prior censorship, clearance or authorization. Some of the most serious crises in SMR occurred when such freedom was allegedly impeded in ILO, ITU and UPU.** Similarly, SRBs must conduct themselves professionally and abstain from any inappropriate language or personal attacks when criticizing the actions, omissions and positions taken by management in texts to be widely disseminated to staff-at-large and/or the public or Member States. Experience shows that a restrained language usually adds to the credibility of the facts presented. The ILO Committee on Freedom of Association is the body in charge of monitoring these elements in the ILO Member States.⁴⁴ The implementation of the following recommendation is expected to further cooperation and coordination between SRBs and staff-at-large.

Recommendation 2

The Executive Heads of the organizations under review, acknowledging the official representational status and functions of Staff Representative Bodies and elected Staff Representatives, should facilitate their access to all available and necessary means of communication with staff-at-large, without censorship.

⁴² Free use of printers and photocopiers and access to conference services (room, sound, interpretation) is made available upon request.

⁴³ ILO Convention 87, Article 3:

"1. Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof."

⁴⁴ <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/committee-on-freedom-of-association/lang--en/index.htm>.

D. Protection of staff representational functions

51. On this subject, paragraphs 94-95 of JIU/REP/2011/10, which quotes the judgments of the ILO Administrative Tribunal, are applicable mutatis mutandis to the organizations under review. In its Judgment No. 496 (1982), the Tribunal specified that “By each contract of appointment the Organization accepts as part of the contractual terms the obligation not to infringe the right to associate” (consideration 6) and that the Staff Association “exists partly because it is in the interests of the Organization that it should. If it were nothing more than the creation of the staff, the Organization could have no concern with it and there would be no place for it in the Staff Regulations” (consideration 17). UNAT considered that “freedom of association is a highly important interest, for both the staff and the Administration, and it must be protected against abuses of power by the authorities. [...] But it is also true that the coexistence of freedom of association and good administration of the Organization must be reasonably balanced.”⁴⁵

52. **SRBs enjoy specific protections** that are recognized by international administrative tribunals. UNAT stated that: “It is an indispensable element of the right of association that no action should be taken against a member of the staff on the ground that he is or has been an officer or representative of the Staff Association or otherwise has been active in the Association.”⁴⁶ Such protections must apply particularly during meetings with Administration. ILOAT noted that the (hierarchical) “principle should operate only within the institution, that is, when the superior is acting as such; it is certain that if the principle applies beyond that it must be relaxed according to the circumstances.” Such protection covers only actions performed with regard to their staff representational functions (see JIU/REP/2011/10, paras 94-95).

53. **The principle of courtesy takes the place of the hierarchical principle during negotiations.** Management cannot use disciplinary sanctions as a pressure tactic on SRs. The ILOAT also stated that “both law and practice allow it wider freedom of speech and only gross abuse will be inadmissible.”⁴⁷ In the same vein, “the Tribunal has consistently held that **individual members of the Staff Committee must have the power to file suit as representatives of that body**. The rationale is that if the Staff Committee is not able to file suit, the only way to preserve common rights and interests of staff is to allow individual officials to act as representatives.”⁴⁸

54. The protection of SRs in the performance of their representational functions is specifically outlined in formal texts in FAO (SR 301.8, Recognition agreement, standards of conduct); ILO (R/PA, Art. 4); IMO (Staff regulations 8.1 and 8.2 and Staff Rule 108.1); WHO and UNAIDS (WHO Staff Regulation (Article VIII) and WHO Staff Rule (910-930) for both organizations,⁴⁹ and Article 4 of the Agreement on Cooperation applicable to UNAIDS only); UNIDO (ICSC standards of conduct and Code of ethical conduct); UPU (UPU Code of Conduct); WIPO (Staff Regulation 8.1); WFP (PSA Recognition Agreement (Section 4.2), FAO-UGSS Recognition Agreement (Section 4.5) and

⁴⁵ UNAT Judgment No. 924 (1999).

⁴⁶ UNAT, Judgment No. 15, Robinson (1952).

⁴⁷ In Judgment 911 at consideration 8 (1988); see also UNAT, Judgment No. 855 (1997).

⁴⁸ ILOAT, Judgment No. 2791, at consideration 2 (2009).

⁴⁹ Comment from WHO management in reaction to the draft of Rec, 3: “WHO has clear Rules and Regulations that allow right of association and that define the role and the rights of the Staff Association. In addition to that, Harassment and Whistleblower policies have been implemented in WHO, and can be used at any time by a staff member, be it a Staff Representative or not, to raise an official complaint. In addition, we are working jointly with the SA on an agreement that will put in place a mechanism to maintain and further develop a respectful workplace in WHO, which includes active measures to prevent harassment and disputes.”

WFP Staff Rules (Manual Section 304)). By contrast **a specific text is lacking in IAEA, ITU, UNESCO and WMO**. The implementation of the following recommendation, in compliance with paragraph 28 of the ICSC standards of conduct, is expected to enhance the effectiveness of staff representation.

Recommendation 3

Where such texts are currently not existent, Executive Heads of the organizations under review should adopt Staff Rules to protect staff representatives against discriminatory or prejudicial treatment, based on their status or activities as staff representatives, both during and after the end of their term of office.

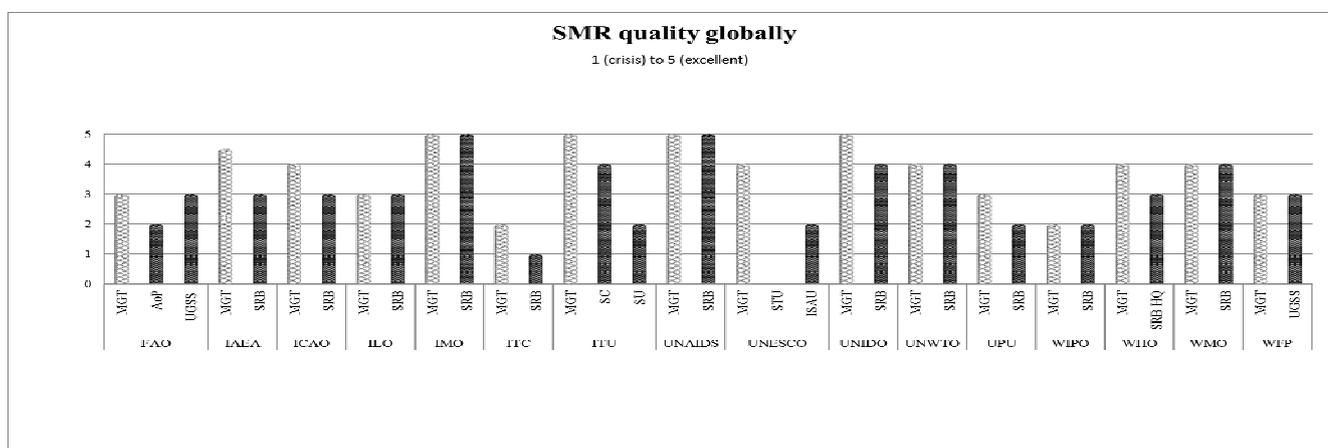
55. SRs in a number of organizations noted that some staff members who may be interested in being candidates for staff representational posts often abstained from doing so out of **fear of retaliation by some managers**. The aforementioned law and case law should dispel such apprehensions of discrimination; it is incumbent upon management at all levels and lines of authority to have a proper understanding of the established principles and rulings in this regard. It is noteworthy that in OECD, a comparable agency, protection is extended even beyond the period of staff representation, as the services of the OECD-SA Chair cannot be terminated for up to one year after completion of his/her function (as guaranteed in a letter from the OECD Secretary-General).

56. An independent, transparent and credible justice system is necessary for addressing issues related to staff-management trust. This is particular true in highly sensitive realms such as “hiring and firing” of staff, where meaningful participation by SRs in the relevant mechanisms is certainly among the conditions for good SMR. In WHO, while the level of participation as well as the effectiveness of SRs in post abolitions has been a contentious issue, WHO-HQ SRs enjoy full participation in selection panels (with varying levels of participation in the regional offices).

VI. OVERALL QUALITY OF STAFF–MANAGEMENT RELATIONS

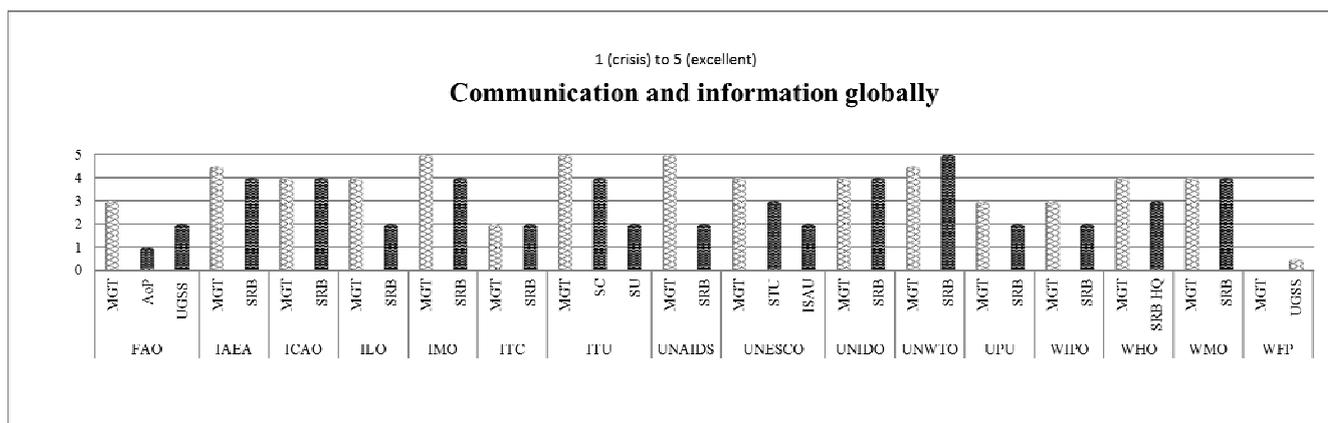
57. Two elements must be examined when it comes to an assessment of overall SMR quality by the protagonists themselves: (a) ratings given by both staff and management, and (b) differences in perceptions between SRs and MRs within the same organization. On a scale, ranging from 5 (excellent) to 1 (crisis), both SRBs and MRs gave the same rating for SMR quality in the following organizations: excellent in UNAIDS and IMO; good in WMO and UNWTO; average in ILO, WFP and FAO (applies to UGSS in WFP and FAO)⁵⁰ and poor/challenging in WIPO. In nine other organizations where SRBs assessed SMR quality more negatively than MRs, scores are reflected in ascending levels of discrepancy in terms of ratings by MRs and SRs in a same organization: 1 level: excellent vs. good in UNIDO and ITU (for ITU-SC); good vs. average in IAEA, ICAO and WHO; average vs. poor in UPU; 2 levels: good vs. poor/challenging in UNESCO (for UNESCO-ISAU);⁵¹ and 3 levels: excellent vs. poor/challenging in ITU (for ITU-SU).

Graph 1: SMR quality globally



Source: Responses to JIU questionnaire

Graph 2: Quality of communication and information globally



Source: Responses to JIU questionnaire

⁵⁰ AP-in-FAO rated overall SMR quality as “poor/challenging”.

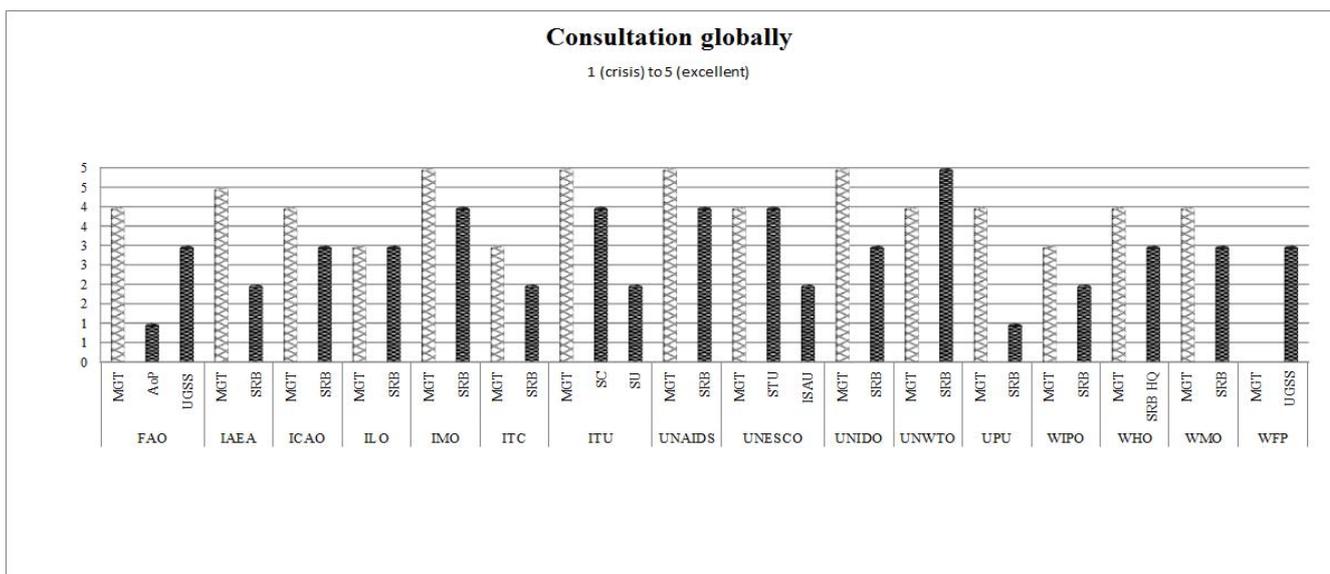
⁵¹ Despite sending multiple reminders, UNESCO Staff Union (STU) did not reply to the JIU questionnaire on this point.

A. Quality of communication, information and consultation⁵²

58. The **quality of communication and information** was assessed highly by both staff and management in UNWTO only, the smallest of all the organizations, where conditions are the easiest in this respect; and by management only in IMO, ITU and UNAIDS, where staff, while rating overall SMR quality as excellent, assessed communication/information quality as poor/challenging, noting that: “the rating would normally be “good;” however, we are in the midst of a workforce functional review, where many staff are extremely frustrated about the lack of communication by Administration on the process and progress being made.” Both staff and management rated the quality as “good” in IAEA, ICAO, UNIDO and WMO. Discrepancies in ratings between an optimistic management and less-than-exuberant SRB was noted in ILO and ITU, where ITU-SU (“poor/challenging”) is more critical in its view than ITU-SC (“good”).

59. Among MRs, only ITC rates **consultation quality** as “fair”, while FAO, IAEA, ICAO, UNESCO, UNWTO, UPU, WHO and WMO consider it as “good,” and IMO, ITU, UNAIDS and UNIDO as “excellent.” Regarding staff, such enthusiasm is shared only by UNWTO-SA, while SRBs in IMO, ITU-SC, UNAIDS, UNESCO-STU rate it as “good”, those in FAO-UGSS, ICAO, ILO, UNIDO, WHO-HQ,⁵³ WMO and WFP-UGSS as “fair”, those in IAEA, ITC, ITU-SU, UNESCO-ISAU and WIPO as “poor/challenging.” SRBs in AP-in-FAO and UPU rated consultation quality in their respective organization as being in “crisis”.⁵⁴

Graph 3: Quality of consultation globally



Source: Responses to JIU questionnaire

⁵² WFP management provided no rating on the quality of communications, consultations and negotiations.

⁵³ WHO-HQ-SA acknowledged that while it met most of the minimum requirements for good SMR, it attributed its lower satisfaction rating to the pressures on the relationship caused by staff downsizing in the last two years. This is an example of a case where a specific factor affects SMR quality, even when most of the formal conditions for good SMR are met.

⁵⁴ While the JIU questionnaire to SRBs and MRs included a question on the quality of negotiations, the responses are not provided here as there were marked differences both within and among MRs and SRs in how they perceived and understood the term “negotiations” (existing sometimes in reality (de facto) but not legally (de jure)) making unreliable any standardized comparisons or ratings given.

B. Formal communication (joint bodies) and informal contacts

60. The term “joint body” refers to a grouping where MRs and SRs, normally participating in equal numbers, work together on a variety of issues, ranging from promotion boards to garage services committees. The number and types of JBs vary significantly from one organization to another. The *raison d’être* for the main JBs can usually be found in the SRRs. Additionally, ad-hoc JBs established for specified limited functions are often established by administrative issuances.

61. **Most organizations have a main JB dedicated to SMR issues**, where staff-management dialogue takes place at the highest level on a periodic basis on issues impacting staff welfare and their conditions of service. Few JBs are defined as negotiating fora: this happens, in particular in the United Nations (SMC at the United Nations Secretariat-wide,⁵⁵ and (progressively) JNCs in the main duty stations) and in the ILO where the texts in force (art. 10.1(c) of the Staff Regulations) recognize that the conditions of employment in the ILO may be jointly determined by the DG or his designated representatives and the ILO-SU through social dialogue, information, consultation and **collective bargaining**. “The DG shall have the authority to bargain collectively with the ILO-SU with a view to reaching **collective agreements**. Collective agreements so concluded shall be attached to the(se) Regulations.”⁵⁶ However, any collective agreement with financial implications or resulting in an amendment to the Staff Regulations requires the endorsement of the GB.⁵⁷

62. By definition, in all organizations, where discussions are envisaged in Joint Advisory Committees (JACs), they are purely consultative and agreements reached may, at best, be morally binding but not legally so. Where JACs constitute the main JB dedicated to SMR issues, the SRs have the possibility to not only discuss some issues and draft administrative issuances prepared by management, but also to put forward their own proposals on any subject falling within the scope defined by the SRRs. Interestingly, in IMO, “the Committee shall submit recommendations, together with any dissenting opinions whose submission has been requested by individual committee members, to the Secretary-General.” Based on the texts, various MRs and SRs observe that the ultimate decision is with the EH, as any proposal or recommendation arrived at is not legally binding in nature. However, while this simply translates to an act of prudence on the part of management, for SRs, it is a source of disappointment as they leave with the impression that JBs have “no authority” and serve as forums where MRs only make promises to support agreed upon positions before the EH.

63. Apart from and beyond the legal texts, **real negotiations do occur in practice** in Joint Advisory Committees and/or Joint Consultative Committees (JCCs) in a number of organizations. Negotiations also take place in complementary ad hoc working groups (as well as in focus groups in IMO) established to arrive at formal JB decisions on specific SMR issues (for example, JAC on FAO reform). The JIU review found cases of **relevant “agreements” being reached** (even if they are formally not binding) through supposedly non-negotiating JBs. Examples⁵⁸ of such agreements can be found in FAO:⁵⁹ a new Performance Evaluation Management System, policy on flexible working

⁵⁵ See the SMC Terms of Reference (ST/SGB/2011/6).

⁵⁶ ILO Staff Regulations, article 10.1 c).

⁵⁷ Collective bargaining at the ILO is defined as negotiations in good faith with the objective to reach collective agreements on issues defined under Article 2 of the Recognition and Procedural Agreement.

⁵⁸ This is a non-exhaustive list.

⁵⁹ In FAO, while the right to negotiate is clearly outlined in Staff Regulation 301.8.1, Staff Regulations 8.11 and 8.12 subsequently apply limitations to its scope:

“301.8.1 In accordance with the principle that the staff has the right to organize for the purpose of safeguarding and promoting its interests, one or more representative staff bodies recognized by the Director-General shall maintain continuous contact and negotiate with the Director-General with respect to the terms and conditions of employment of the staff and general staff welfare.

8.11 Negotiations between recognized staff representative bodies and the Director-General shall be subject to the understanding that the Director-General will retain, under the provisions governing his constitutional responsibility, the right of final determination in matters within his authority.

arrangements, mediation programme, occupational safety and health; UNIDO: policies on gender equality and empowerment of women, Code of Ethical Conduct, protection against retaliation for reporting misconduct or cooperating with audits or investigations, financial disclosure and declaration of interests, amendment to field mobility policy; ICAO: agreements were reached on revisions and amendments to the entire “service code”, the equivalent of the Staff Rules.

64. **A second type of JB is constituted to advise the Executive Head** (or rather management) **on individual issues** where SRs participate in HR management processes on recruitment, promotion, separation,⁶⁰ due process, disciplinary and pre-litigation procedures in the administration of internal justice.⁶¹ **A third type of JB focuses on the management of services and facilities** that are specific to a particular duty station, including, among others: committees for catering, garage operations, commissary, crèche, local transport, staff benevolent funds, etc. The role performed by staff in such bodies is largely advisory. The implementation of the following recommendation is expected to enhance coordination and cooperation between SRs and MRs.

Recommendation 4

Where joint Staff-Management bodies dedicated to SMR issues currently do not exist, the Executive Heads of the organizations under review should establish such bodies to undertake formal consultations on issues impacting upon conditions of service and staff welfare.

65. SRs and MRs in most organizations acknowledge that **informal dialogue** occurs frequently between the Head of HR and the SRB Chairperson, either on a daily (e.g. in IMO), weekly (e.g. in WHO) or monthly basis (e.g. in UNESCO). In small organizations, such as UNWTO, as well as in some large ones like WHO, informal meetings are common and facilitate good S-M communication and relations. **The “open door policy” of top management** (e.g. UNAIDS) is an expression of clear concern on the part of the organization’s executives about staff and leads to constructive SMR. When continuous, effective informal dialogue exists between SRs and MRs at the decision-making level, the need to utilize formal JBs diminishes, as they become purely formal. Nevertheless, formal S-M structures should be used as specified in SRRs. In WIPO, the JAC is improperly utilized to primarily handle staff disciplinary matters, undermining trust on the part of both staff and management.

C. Possible challenges pertaining to SMR in field offices

66. Within its existing resources, the JIU review team was able to undertake a mission to only one field office in Hanoi, Viet Nam (one of eight “pilot countries” participating in the United Nations Delivering as One (DaO) initiative). There it interviewed management and SRs of seven JIU participating organizations⁶² and four comparable organizations.⁶³ Consequently, this section does not purport to comprehensively cover all challenges existing in the field, nor does it make any claim that the challenges presented here are common or equally relevant to all field offices. Rather, it outlines

8.12 In negotiations with such staff bodies, the Director-General shall not be committed to any final decision whenever such decision rests with the governing bodies of the Organization or would deviate from the common system of the United Nations; in such cases, the Director-General shall strive for agreed positions to be forwarded to the competent organs of the Organization or of the common system.”

⁶⁰ See JIU/REP/2012/4 “Staff recruitment in United Nations system organizations: a comparative analysis and benchmarking framework”, in particular the annex on selection procedures: Ad-hoc assessment panels and standing review bodies (by Organization).

⁶¹ For the role of SRs in the reform and professionalization of Administration of Justice in the United Nations, see JIU/REP/2011/10, para 106.

⁶² FAO, ILO, UNAIDS, UNESCO, UNIDO, WHO, UN Resident Coordinator’s Office.

⁶³ IFAD, IMF, IOM, World Bank.

some of the challenges observed in Hanoi, and highlights those that may exist in other field offices – based on the overall views and experiences of staff serving in Hanoi, including those who had served previously in other field offices. The principal challenges highlighted are outlined below.

67. The vast majority of specialized agencies have no formal local staff association with established statutes at the field-office level. Often the reason given is that there is not enough staff in a particular field office to necessitate the establishment of a formal SRB, particularly when issues can be resolved internally. In this regard, it is interesting to note the practice in OSCE, which officially recognizes the right to organize a local staff union in any entity / section composed of more than 17 staff members and to benefit from a field Staff Committee, the structure of which mirrors closely the structure of the Staff Committee at HQ.

68. Consequently, given such absence, there is also little or no incentive for management to establish JBAs at the field-office level to discuss issues that directly impact staff welfare. This results in a highly informal nature of SMR in the field, where staff members interested in SMR issues generally volunteer to serve as SRs (rather than being elected) and are often not familiar with organizational SRRs. The situation is not helped by the fact that in duty stations like Viet Nam which participate in the DaO initiative, regular office duties have significantly increased as a result of complying with the DaO approach, whereby UN Country Teams (UNCTs) work to find common solutions to most issues. As SRs do not receive any formal time release, they end up sacrificing personal time to complete both increased office duties and staff representational tasks. As most field offices only have a few staff members, this further limits the possibility for SRs to delegate representational tasks to others.

69. The aforementioned challenges have a corresponding impact on the effectiveness of local FUNSAs which are meant to bring together SRs of all the United Nations agencies in a particular duty station to collectively address common challenges with regard to staff welfare in that location. Discussions with and on the FUNSA in Hanoi revealed that most SRs genuinely lack not only time to actively participate in FUNSA meetings, but also an adequate level of knowledge and training on staff representational matters. The role of the FUNSA in Hanoi is thus largely limited to organizing social events and does not meet the standards expected by FICSA when it proposed the FUNSA model that is currently followed in 27 other locations.

70. The local cultural context and language barriers have an impact on SMR in Hanoi. Many of the local staff interviewed stated that they placed a premium on not “losing face” and thus avoided raising grievances, as they did not want to be perceived as “troublemakers”. Some also stated that as they had a limited grasp of the working language (English) of the office – particularly compared to international staff – this directly impacted their confidence to adequately voice their concerns. It is quite conceivable that similar challenges are present in other field offices where a significant proportion of the local staff may lack an adequate grasp of the working language.

71. Interviewees in Hanoi were of the opinion that the sense of job security of national and international staff may vary, due to differences in mobility options and their level of awareness of the SRRs. Most international staff had received some form of training on SMR issues as they performed certain managerial functions. They also had a better grasp of their rights via SRRs compared to local staff who, in many cases, acknowledged that they had little or no knowledge of the SRRs applicable to them.⁶⁴ Local staff also noted that, irrespective of the circumstances, they often felt obliged to maintain good relations with their manager since their career mobility prospects were usually limited to their (in many cases, small) country office. In some cases, all managerial functions are entrusted to

⁶⁴ One SRB noted that “while knowledge is an issue, we also find that even when people know the rules, they are not confident that anyone will act when they speak out. The most likely outcome is that they will be perceived as a “troublemaker”, or someone who isn’t a “team player” who recognises that managers are “just trying to get things done”, etc. Where there isn’t an open dialogue between colleagues in a small office, “speaking out” will only make for strained relations with one’s supervisor and colleagues.”

one individual, typically, the manager of the country office, who would be responsible for the performance appraisals of all local staff. Such a scenario makes it all the more important for local/national staff to develop an adequate understanding both of their rights (and duties) as staff members and of the existence and functioning of formal recourse mechanisms, so that they do not incorrectly perceive their manager as having the sole and final say on their careers. Where other field offices face similar conditions as those outlined above, it is entirely plausible that local staff may, correctly or incorrectly, perceive a more limited sense of job security.

72. In at least one field office in Hanoi, the Inspector observed a highly paternalistic attitude by management with regards to local staff. During the interviews, some country office managers pointed to “cultural differences” to indirectly imply that the local staff were somehow incapable of defending their own rights, thus the manager had to step in and do it for them – an attitude that disregards the inherent conflict of interest in serving as both de facto employer of staff and defender of their rights in relation to the employer.

73. SRs in many specialized agencies in Hanoi stated that they had an inadequate level of interaction with HQ-based SRs, with communication mostly limited to receiving occasional broadcast e-mails, and virtually no access to representatives of Member States. Indeed, HQ-based SRs in several (but not all) specialized agencies acknowledged that more could be done to further improve communication with their counterparts in the field offices. Most of the SRs in Hanoi did not appear to be informed even of major developments affecting SMR within their own organizations. Communication between these SRs and their counterparts and the HR department in regional offices (e.g. in Bangkok) tends to be more regular (compared to with HQ). The Inspector is of the opinion that such regional-field office linkages should be further strengthened.

74. Increased knowledge has to be accompanied by management action and responsiveness, including enhancing confidence in internal management and accountability mechanisms. In Viet Nam, SMR in non-JIU POs, like IOM and World Bank, is more formally established with both entities having local staff associations (LSAs) whose SRs (national staff) appeared to be more confident and knowledgeable with regard to their rights, the SRRs and the functioning of formal/informal dispute resolution mechanisms. The Inspector considers the proactive efforts of the World Bank Group Staff Association (based in Washington D.C.) to establish Country Office Staff Associations (COSAs) that now exist in most of the Bank’s field offices, including Hanoi, as a good practice, and one that could be replicated by all SRBs in their field offices. Membership in a LSA should not be viewed as incompatible with membership in the SRB at the organization-wide level.

75. As the World Bank became increasingly decentralized over the past five years, with more than 4,000 staff being based outside of Washington D.C., the WB-SA adapted accordingly, prioritizing staff empowerment at the country-office level and making COSAs more autonomous, thereby enabling the development of a real sense of ownership of the staff association. WB-SA also utilizes peer pressure in cases where country office managers are initially reluctant to establish a COSA. One of the outcomes has been a doubling in the number of country office staff joining the WB-SA in the last three years. The Bank also has comprehensive conflict-review mechanisms (mediation, including regional mediators, ombudsman, peer review, ethics, integrity, tribunal) in place that field-based staff can readily access and understand. Representatives from the World Bank’s internal justice system travel to country offices to train local staff.

76. The implementation of the following recommendation is expected to enhance the accountability of the organizations under review, with regards to paying due attention to the concerns of field staff and the challenges that they face.

Recommendation 5

The Governing Bodies of the organizations under review which have a field presence should mandate their Executive Heads to ensure that when reporting on human resources issues, challenges faced by staff in the field are specifically detailed.

D. The way forward

77. It is clear from the present section that perceived SMR quality is far from satisfactory in most of the organizations concerned. Furthermore, the frequent distortion in how management and staff perceive SMR quality seems to indicate that major gaps exist in how they communicate with and understand each other. Formal mechanisms for dialogue on SMR related issues, in the form of joint staff-management bodies – where they exist – appear to lack a clear mandate to arrive at binding decisions, which creates doubts among SRs as to their utility. Under and improper utilization of such entities should be immediately redressed. Informal channels of dialogue should be encouraged and promoted, not at the expense of formal channels, but complementary to them. Mechanisms should also be established to allow for the adequate expression of the views and concerns of field staff, and steps should be taken to ensure that all staff – irrespective of duty station – have a clear understanding of the SRRs. Section VII outlines some useful tools that – when effectively implemented – can bridge some of the gaps outlined in this section.

VII. TOOLS FOR FOSTERING SMR

A. Training

78. The need to train both MRs and SRs on HR-related issues is substantial. It is particularly necessary for SMR, as recognized by both parties, and solutions should apply systematically for newly elected SRs and newly assigned MRs, especially when they have no background in the area. Ten POs confirmed that they provide and pay for training for managers. The training mode varies among organizations from e-learning and CD Rom courses (UNESCO) to coaching activities and a Management Certificate Curriculum for all managers in IAEA. Training is sometimes available to staff-at-large, either as an induction (ILO, UNIDO), mandatory (IAEA), or voluntary programme (participation with supervisor's approval – ICAO, IMO, WHO, WIPO). Some training activities include a specific module on SMR (ILO, IAEA, WHO⁶⁵) with an introduction on the role played by the SRBs for the organization. In UNIDO, the SC President is a regular contributor to UNIDO's induction course for newly recruited personnel which has a special session for that purpose. Such a good practice remains an exception, rather than the rule.

79. For the SRs, the availability of formal training is less systematic as it relies on the financial capabilities of the SRBs or their federations to hire external contractors as instructors. The most common form of on-the-spot training involves the assignment of an experienced SR to mentor a new one, thus furthering continuity in internal affairs and the passage of institutional knowledge. ILO-SU has institutionalized training through a SR manual and courses dispensed during regional meetings or on an ad hoc basis upon request. Among the comparable agencies, IOM-SA has a handbook for newly elected SRs, outlining ways and means to assist staff and the principles to be respected.

80. In order to make all new staff aware of their rights and responsibilities and the bodies that can defend them, **the respective HR services should ensure that all new staff members receive copies of the SRRs, standards / codes of conduct, relevant information regarding SRBs in their organizations (as determined by the SRBs themselves), as well as any other documentation agreed between the SRBs and management. When feasible, SRs may also be invited to address new staff members during orientation sessions.**

81. FICSA and CCISUA deliver specific courses that the SRBs appear to be satisfied with. However, the possibility for SRs to attend such meetings depends on the management's position with regard to such activities and any time release that has been agreed upon. Indeed, travel expenses, daily subsistence allowances (DSAs) and days off come at a price that the organization and a fortiori its SRB do not always cover.

82. **Apart from WHO,⁶⁶ no joint S-M training currently exists in any of the POs, even though there is a shared perception of its presumed benefits to both parties, as a complement to separate training.** In their responses to the JIU questionnaire, MRs and SRs identified three main areas for potential training:

- Understanding and knowledge of organizational policies with regard to both the United Nations system in general (staff rights and duties, pensions, recruitment policies, legal recourse mechanisms, tribunals, appeals procedures, dealing with harassment and discrimination) and the

⁶⁵ WHO's induction tool (interactive programme called "New at WHO") presents, under Module 6, the Staff Association, the Code of Conduct, the Ombudsman and the Internal System of Justice.

⁶⁶ According to WHO management, training was provided jointly with the Staff Association with regards to the implementation of the harassment policy and the ethics function. A training session called "Values in Action" was also organized by HRD one month prior to the Global Staff Management Council (GSMC) meeting and was open to both Staff and Management Representatives.

organization in particular (international context, strategic orientation, policies, SRRs, standards of conduct, ethics courses, performance management system, media and public relations);

- Formal SMR (role and mandates of JBs, management accountability with regard to HR policies, SRB's rules and regulations, duties and expectations of SRs, industrial relations and mechanisms, negotiation and consultation skills and processes);
- Career and soft skills enhancement (leadership skills, motivation, stress management, communication and public speaking skills, mediation and conflict resolution, strategic and creative thinking).

83. While some of the aforementioned topics are of more specific interest to either staff or management and do not have to be undertaken by both, there is room for joint training, especially with regard to knowledge required for formal SMR. The implementation of the following recommendation will enhance coordination and cooperation among SRs and MRs.

Recommendation 6

The Executive Heads of the organizations under review should allocate the appropriate resources to their respective human resources services to develop (preferably jointly with staff representatives) and implement training activities on SMR-related issues, and strongly encourage the participation of newly appointed managers and newly elected staff representatives in such training.

84. Given the cost implications to develop and implement training activities, where possible, such training may be incorporated into orientation programmes that already exist for new managers.

B. Staff-Management Recognition/Cooperation Agreements (R/CAs)

85. In a number of organizations,⁶⁷ management and staff felt the need⁶⁸ to institutionalize their partnership through a Recognition/Cooperation Agreement (R/CA), an additional signed contractual instrument committing both parties to a lasting privileged relationship. The thrust of it is mutual "recognition" by which the two parties formalize their (pre-existing) partnership based on the two legitimate authorities they represent. For MRs, this involves the top-down functional line of authority from legislative/governing bodies to EHs to management and finally to staff-at-large. For SRs, this involves the symmetrical authority of an SRB elected by staff-at-large to represent and defend their collective interests, to advise or negotiate and possibly cooperate with management. The R/CA is supposed to clarify the ways and means through which staff, carefully defined in the R/CA, will be affected by such cooperation⁶⁹ and its foreseen layers. This ranges from consultation and **negotiation**

⁶⁷ Organizations with R/CAs: FAO-UGSS recognition agreement between FAO (its DG) and UGSS (1976); IFAD cooperation agreement (1987); FAO-AoP (2009); ILO recognition and procedural agreement (2000); UNAIDS cooperation agreement (2010).

⁶⁸ Not all organizations share the view that R/CAs are necessary.

⁶⁹ For instance "Staff Member" means any person receiving remuneration for employment performed for IFAD, regardless of any conditions and time-limits specified in the contract of employment, and appointed in accordance with Article 6.8 of the Agreement establishing IFAD, with the exception of IFAD Management; in FAO, the R/CAs respectively affect P staff and HQ based GS Staff of both FAO and WFP; the ILO R/CA defines a "staff member" as "any person with a paid relationship with the Office, other than bona fide external collaborators".

with the organization (both FAO R/CAs) to – more restrictively – consultation, representation and communication (IFAD and UNAIDS).

1. Common content of Recognition/Cooperation Agreements

86. The FAO-UGSS R/CA was the very first R/CA to be adopted in a United Nations system organization and has served as a model for other R/CAs that have followed. Through such agreements, SRs and MRs agree to respect and uphold the following rights and corresponding duties with regards to their counterparts:

a. Management confirms the following:

Rights of the SRB

- (a) To consult, be consulted on and negotiate (FAO and ILO) all aspects pertaining to the terms and conditions of employment and any other matter jointly agreed upon;
- (b) To publicize its activities and invite eligible staff members to join (voluntarily);
- (c) To hold meetings in the organization's premises, specifying the appropriate frequency, duration and timing of such meetings;
- (d) To be represented in common system meetings (e.g. FICSA, CCISUA, ICSC) by SRs on special leave (as part of their official duties);
- (e) To utilize facilities on the organization's premises: meetings rooms, notice boards, broadcast and printing facilities (possibly on a reimbursement basis);
- (f) To utilize the organization's payroll deductions system to collect monthly dues from its members, on their written authorization;
- (g) To be free from management interference with regard to its internal governance;

Rights of an SR

- (h) To devote a reasonable portion of regular office hours to performing staff representational duties;
- (i) To be granted time release from normal office duties, with the knowledge of their supervisors;
- (j) **Not to be subject to intimidation or discriminatory treatment** by the organization as a consequence of performing staff representational functions.

b. Duties of the SRB

- (k) Provides management with a complete list of all elected SRs, including their respective designations/functions within the SRB;
- (l) Provides guarantees to management that its SRs will not abuse the facilities afforded to them.

c. Joint duties of both SRB and management

- (m) Outline procedures for communication, information, consultation and negotiation;
- (n) Make themselves available to develop (jointly) a procedure for handling complaints, grievances and differences of opinion among staff members (the SRB may, on request, represent the interests of a staff member when reviewing the substance of the complaint with management (IFAD));
- (o) Make themselves available to explore (jointly) the possibility of developing procedures for conciliation/arbitration (already developed in AP-in-FAO R/CA) with a neutral person (external or retiree) as mediator;

(p) Accept the representational procedures annexed to the R/CA, which contains (rare) provisions dealing with **strikes**.⁷⁰

2. Additional provisions for specific R/CAs

87. R/CAs developed after the FAO R/CA model, added various new aspects (of uneven importance). For example with regard to paragraph 1.a. (above), management commits to transmitting information to the SRB, with the caveat that any confidential information will retain such status (IFAD R/CA), including information on the work of the common system (ILO R/CA); regarding paragraph 1.b. (above), the SRB confirms that its members may, at any time, resign from membership of the Staff Association (IFAD R/CA); and regarding paragraph 1.c. (above) all R/CAs establish clear provisions for their amendment and possible termination.

88. The ILO R/CA distinguishes four kinds of issues as the substance of “collective bargaining”:⁷¹

- (a) Policies, procedures and practices for implementing the common system terms and conditions of employment in the organization;
- (b) Changes concerning the common system terms and conditions (at the initiative of either MRs or SRs);
- (c) Policies, procedures and practices on other terms and conditions of employment;
- (d) Issues affecting a group of staff members, including those arising from the day-to-day management and administration of the organization.

89. The ILO R/CA also provides for training of ILO-SU members; an independent audit of the financial arrangements on cooperation; **and the creation of a JNC and the establishment of its procedures. It develops important procedures on collective dispute settlement**, based on a review panel with various steps and culminating in freedom of action by the parties concerned when successive efforts lead to failure. In establishing its cooperation structure and procedures, UNAIDS R/CA details numerous **transparent means for formal S-M contacts**, including, an annual face-to-face meeting between UNAIDS-SSA Executive Committee and senior management, as well as precisely defined monthly, quarterly, bi-weekly and weekly meetings among a smaller group of SRs and MRs.

3. Added value of Recognition/Cooperation Agreements

90. The review found no correlation between having an R/CA and SMR quality in the organizations concerned.⁷² While R/CAs enhance the coherence of existing obligations and commitments on both SRB and management, and make clear that representational functions are official duties, organizations that do not have an R/CA already cover most of the issues dealt with in the R/CAs through the provisions of their SRRs, administrative issuances and agreements reached through JBs.⁷³

⁷⁰ The SRB agrees (in the annex) that work stoppages and the use of restrictive practices should be avoided if at all possible; it further expresses its intent to work with the organization on procedures for orderly conduct should it resort to such means.

⁷¹ Collective bargaining is defined as negotiations in good faith with the objective of reaching collective agreement on them between the Parties concerned. It may be noted that UNAIDS’ R/CA substitutes the notion of “cooperation” with collective bargaining as encompassing consultation on the same four kinds of issues.

⁷² In responding to the JIU’s finding of no correlation between having an R/CA and SMR quality in the organizations concerned, WFP-PSA has noted for the record that “although this may be true, we would like to underline the importance of having R/CAs for Staff Associations. **It is a guarantee of fundamental rights for SRBs also because the provisions included in R/CAs remain in force regardless of changes in Management and/or EHs.**”

⁷³ For instance, in WHO, where no R/CA exists, management notes that “Apart from points c, n, o and p above and some provisions made under paragraph 89, all provisions are addressed by WHO either in a formal or in an informal manner as regards procedures, complaints review, harassment policy, training requirements, consultation on policies, procedures, practices and conditions of employment.” The WHO-HQ-SA “is duly

Additionally, given that R/CAs reflect a shared preference for a unique partnership between two parties, when multiple SRBs exist in a single organization, the need arises for other rules on representative governance to be agreed upon among the parties concerned. UNOG Staff Coordination Council, which brings together multiple SRBs (JIU/REP/2011/10, para. 78), can serve as a useful guide in this regard, as can the European Commission's Framework Agreement. In organizations where the management may be apprehensive of signing an R/CA due to fear of losing a certain level of control, it is important to highlight that the existence of an R/CA does not, in any way equate to co-management of the organization. For example, IFAD R/CA clearly acknowledges that the granting of recognition does not detract from the President's (EH's) authority and responsibility to conduct the business of IFAD (sect. 3.01).

C. Staff Surveys

91. Staff surveys serve as a direct instrument for assessing the perceptions of staff on various aspects related to their work environment, including SMR. Surveys should be undertaken periodically, be comparable over time and have a methodology that is agreeable to both SRs and MRs, who should have the opportunity to jointly participate in and monitor all the relevant steps of the process. Having a staff survey completely driven by one party (either SRs or MRs) risks being "politically oriented".

92. When a survey is both neutral and methodologically rigorous, it helps to reveal important aspects about an organization, and can thus serve as a useful tool for dialogue and consultation. In ICAO, for instance, management recognizes that information is gathered via frequent dialogues, consultations and staff surveys. This was confirmed by ICAO-SA which noted – in relation to the "staff morale survey" (2009) undertaken during a transitional period in the organization – that "the SRB plays a decisive role in communicating the views of staff to management by carrying out surveys, analysing their results and transmitting the analysis, conclusions and recommendations in a report. As a result, the different steps are conveyed to staff by e-mail, information meetings and training sessions". IAEA surveys (2001 and 2004) also exemplify cases where surveys have been useful for understanding the challenges arising from organizational transition.

93. The major utility of a survey lies not just in its results, but in the manner in which the process is perceived by both staff and management as a major element to build/rebuild sound SMR and a reasonable HR strategy (see IMO 2008 staff satisfaction survey). The implementation of the following recommendation is expected to enhance SMR effectiveness.

Recommendation 7

The Executive Heads of the organizations under review should undertake staff surveys – incorporating questions that are comparable over time – at regular, two-to-four-year intervals (when feasible), to be conducted in a framework of objectivity, in particular through the participation of both staff and management representatives in the survey development process, its operation and its interpretation.

D. The way forward

94. While the value of SMR-related training is universally acknowledged, any real usefulness of the two others tools outlined in this section are contingent upon (a) whether an R/CA contains new elements that are of added value (e.g. clear provisions for facilities and time release for staff

represented in all joint Committees (Reassignment, Classification...), in all recruitment procedures, and as part of the Headquarter Board of Appeals."

representational functions – a feature currently lacking in many organizations reviewed); and (b) whether a survey has been designed in full impartiality with the participation of both SRs and MRs.

95. Despite clear recognition of its usefulness, deficiencies in SMR-related training also abound, as currently not a single organization can guarantee that all new staff members – irrespective of grade or duty station – have been objectively made aware of SMR-related issues, including the SRRs that apply to them. While some useful training has been provided on a proactive basis by either MRs or SRBs to new staff members in different organizations, such efforts need to be replicated and harmonized across the United Nations system. From the Inspector's viewpoint, training on SMR issues is particularly lacking for field staff; in this regard, MRs and SRs should collaborate to identify the most cost-effective means of providing such training. The following section focuses on the essential principles and texts outlining the rights, responsibilities and obligations of which staff and management organization-wide are expected to have a clear understanding and to which they should adhere strictly.

VIII. STAFF-MANAGEMENT RELATIONS AND ETHICS

A. Ethics related services

96. If common values are central to the United Nations system, it is logical that all staff and “non-staff” be guided by the same standards of conduct, including in SMR. Article 101, paragraph 3, of the Charter of the United Nations, signed in 1945, sets the standard for all staff members and obligates them to uphold “the highest standards of efficiency, competence and integrity.” Standards inform, provide explanations to and inspire staff by articulating the basic values that form the ethical and philosophical underpinnings of the international civil service.

97. In 1954, the International Civil Service Advisory Board (ICSAB)⁷⁴ published a report on the standards of conduct in the international civil service. This report was highly regarded for over five decades, and customarily given to new staff members in many United Nations organizations. It was also cited by many, including by the United Nations Administrative Tribunal (UNAT), when assessing the conduct of staff. In the preface to the 1986 edition, the EHS of the United Nations organizations duly noted that “high standards of conduct are best attained by a universal understanding among staff members of the relation between their conduct and the success of the international organizations.”

98. In the same preface, the Administrative Committee on Coordination (ACC) made the following observation regarding one of the many changes that have taken place over the past three decades, in relation to the role of elected SRs: “recognition of the right of staff members to participate, through their representatives, in the consideration of questions relating to their conditions of service has made welcome progress [...]. In particular, SRs are now admitted to address the GBs of many organizations when personnel questions are being discussed. [...] Irrespective of the form in which staff participation is organized, however, the basic principles of respect for mutual obligations and for the “rules of the game” [...] remain essential to the effective and harmonious working of the secretariats.” Such principles remain indispensable for SMR among international public officials (see JIU/REP/2011/10, table 4: Rules for constructive negotiations).

99. In addition to SRBs, there is a significant number of entities in most organizations, to which staff have access to when ethical problems arise, including staff counsellors, ombudspersons, mediators, arbitrators, HR personnel, oversight offices and the ethics office/officer. In 2010, JIU thoroughly reviewed the ethics function in the United Nations system organizations, addressed recommendations and suggested standards to foster the formal establishment of an ethical function (see JIU/REP/2010/3, Ethics in the United Nations system). The various **aspects to be included in the formal establishment of the ethics function (as suggested by the report) would certainly make SMR easier**. They would serve as a means to prevent – to the extent possible – unethical behaviour and corrupt practices that continue to affect the work and reputation of some United Nations system organizations. The report also highlights the necessary involvement of SRs in the selection process for the head of the ethics office in their respective organizations, notably paragraph 43 which states: “[...] some doubts and reservations [were] expressed about the efficacy of the ethics function. In particular there was deep mistrust concerning the recruitment and selection of the heads of ethics offices. **The Inspectors consider that the ethics function cannot fully achieve its objectives without the support of the staff of the organizations.**”⁷⁵

100. During the interviews for the two reports on SMR (JIU/REP/2011/10 and JIU/REP/2012/10), there were regular references to ethical aspects evoked by both staff and management representatives, including allegations of unethical behaviour attributed to members of the other group (not limited to

⁷⁴ The ICSAB was set up in 1948 and played an important part in developing principles and standards in personnel matters until 1975 when it was replaced by the ICSC.

⁷⁵ JIU/REP/2010/3, para 43.

fairness issues). Annex I of JIU/REP/2010/3 provides information on the organizations that have established a formal ethics function.⁷⁶ While the rationale for the establishment of an ethics function is different from the one for SRBs, both can be considered as defence and support services by each staff member.

B. Ethics and codes of conduct

101. Three different prescriptive tools were highlighted by SRs and MRs:

- (a) The SRRs of each organization, with a corresponding section on staff relations, serve as the basis of the legal framework for SMR;⁷⁷
- (b) The standards of conduct – possibly arranged into a code of conduct – can be organization-specific (e.g. UPU and IOM, comparable organizations) or one common text for the International Civil Service and issued by the ICSC. With regard to the latter, ICSC proposed an updated text in annex IV of its 2012 annual report to the General Assembly (A/67/30);
- (c) Specific codes of ethics developed by some organizations (ITU, WMO).

102. As regards SMR, these prescriptive texts may raise various questions:

- To what extent are SRs interacting with management in their elaboration and adoption?
- Are the respective duties and responsibilities of managers and staff balanced in the texts and, more importantly, their implementation?
- Can they be legally enforced?
- What grade level or function does a manager need to hold in order to make legally binding commitments on behalf of his/her organization vis-à-vis other staff members (for example, on questions of safety and security)?
- How relevant is the actual content of these texts with regard to maintaining and developing good SMR?

C. Staff Regulations and Rules (SRRs)

103. Key to SMR is the adaptation of the staff rules to new realities, opportunities and constraints, through formal JB sessions and informal S-M contacts on changes affecting staff. Management and SRs should have the opportunity to undertake in-depth discussions on new suggestions, initiatives or concepts that may substantively impact HR policies (e.g. simplification of numerous existing contractual arrangements). In addition, concise and timely (planned) discussions, consultations and/or negotiations, according to the legal frameworks used, should be held regularly to update, as appropriate, administrative instructions and, at the local level, information circulars affecting staff welfare and conditions of service.

104. However, when reform measures are developed in total discretion by one side, without clearly informing or consulting with the parties concerned, SMR can be jeopardized. This is particularly likely in cases where unilateral initiatives are hastily adopted, following external pressure, and result in painful “reforms” that are subsequently difficult to manage and apply.

⁷⁶ In reacting to the draft report, ICAO management noted that “with effect from 1 January 2012, ICAO has implemented an Ethics Framework, including, inter alia, provisions for the protection of staff against retaliation. An Ethics Officer has also been recruited and is responsible for overseeing adherence to the Ethics Framework, providing guidance and training, etc. The mechanisms are therefore in place to protect all staff against retaliation, including of course staff who undertake representative functions.” WHO management also noted that “WHO is currently considering the elaboration and the implementation of a dedicated Ethics function/office as, currently, the Ethics function is shared between HRD/HPJ, Legal and internal oversight (IOS).”

⁷⁷ See JIU/REP/2011/10, Annex I, for SRRs in the United Nations specific to SMR.

D. Standards of conduct

105. In 1997, the Secretary-General issued a 54-page report, entitled Proposed United Nations Code of Conduct, which had little in common with the 1954 “**standards of conduct in the international civil service**”. In its resolution adopting the Secretary-General’s proposed text, the General Assembly appeared to acknowledge this disconnect by stating that “the ICSC has decided to include in its work programme the updating of the 1954 Standards of Conduct in the International Civil Service of the (ICSAB) in consultation with the Consultative Committee on Administrative Questions (CCAQ), and looks forward to the results of this review.”⁷⁸ Under the aegis of the SMCC, two S-M working groups discussed the Secretary-General’s report and proposed 40, and subsequently, 50 amendments. Finally, based on the recommendation of the SMCC, the Secretary-General proposed in an addendum to his report to the General Assembly, the removal from his original proposal of all provisions dealing with SRs, as they were to be exclusively dealt with under article VIII (Staff Relations) of the SRRs. The resulting text was adopted on 10 December 1998 as Status, basic rights and duties of the United Nations staff members (ST/SGB/1998/19), and subsequently revised as ST/SGB/2002/13 with the same title but a few variations.

106. In the meantime, the ICSC worked closely with organizations and SRs to reach a consensus on a text that would serve the needs of the international civil service in the 21st century. In 2001, it adopted and recommended to the legislative organs of all organizations an update to the 1954 ICSAB report, keeping its title as Standards of conduct in the International Civil Service. They were welcomed by the General Assembly in resolution 56/244. Paragraph 3 of the standards (retained in the 2012 version) states that “The values that are enshrined in the United Nations organizations must also be those that guide international civil servants in all their actions: fundamental human rights, social justice, the dignity and worth of the human person and respect for the equal rights of men and women and of nations great and small.”

107. In 2009, ICSC requested its secretariat to work with organizations and staff federations to undertake a review of the standards of conduct in order to ensure that they continue to meet the needs of the organizations, and to define areas that might need updating.⁷⁹ After holding two sessions, the working group proposed a text which was eventually adopted by the ICSC. Most of the paragraphs of the 2002 text remained unchanged and the language used in several others was somewhat simplified (making them more direct). The document contains new paragraphs on the use of the assets and information of the organizations, and on post-employment restrictions across the United Nations system in the context of possible conflicts of interest.

108. From an SMR perspective, the new text approved by the ICSC and submitted to the General Assembly as annex IV of its 2012 annual report⁸⁰ is an improvement. Following numerous reports and resolutions on the accountability system in the United Nations Secretariat (since General Assembly resolution 48/218 B), the standards justly sanction the principle of personal accountability in paragraph 13, which states that “international civil servants at all levels are accountable and answerable for all actions carried out, as well as decisions taken, and commitments made by them in performing their functions.” The text complements, among other pre-existing guiding principles relevant to SMR, aspects such as integrity (para. 5), equal respect for all persons without any distinction whatsoever (para. 6), respect for the right of others to hold different points of view (para. 14) and freedom from discrimination as a basic human right (para. 15).

109. Under “working relations” the new text appears more balanced than the previous version of the standards. In particular, paragraphs 16-18 are addressed exclusively to “managers and supervisors” and state as follows:

⁷⁸ A/RES/52/252, para 13, adopted September 8, 1998.

⁷⁹ A/64/30, para 35.

⁸⁰ A/67/30.

“16. Managers and supervisors are in positions of leadership and it is their responsibility to ensure a harmonious workplace based on mutual respect; they should be open to all views and opinions and make sure that the merits of staff are properly recognized. They need to provide support to them; this is particularly important when staff are subject to criticism arising from the performance of their duties. Managers are also responsible for guiding and motivating their staff and promoting their development.

17. Managers and supervisors serve as role models and they have therefore a special obligation to uphold the highest standards of conduct. It is quite improper for them to solicit favours, gifts or loans from their staff; they must act impartially, without favouritism and intimidation. In matters relating to the appointment or career of others, international civil servants should not try to influence colleagues for personal reasons.

18. Managers and supervisors should communicate effectively with their staff and share relevant information with them. International civil servants have a reciprocal responsibility to provide all pertinent facts and information to their supervisors and to abide by and defend any decisions taken, even when those do not accord with their personal views.”

110. As stressed in the previous report on SMR,⁸¹ it is also important for SRs to respect the rule of law, as implied by paragraph 20 of the standards: “international civil servants have the duty to report any breach of the organization’s regulations and rules to the official or entity within their organizations whose responsibility it is to take appropriate action, and to cooperate with duly authorized audits and investigations. An international civil servant who reports such a breach in good faith or who cooperates with an audit or investigation has the right to be protected against retaliation for doing so.” On the subject of SMR, the text of the proposed updated standards of conduct is outlined below.

Staff-management relations

“30. An enabling environment is essential for constructive staff-management relations and serves the interests of the organizations. Relations between management and staff should be guided by mutual respect. Elected SRs have a cardinal role to play in the consideration of conditions of employment and work, as well as in matters of staff welfare. Freedom of association is a fundamental human right and international civil servants have the right to form and join associations, unions or other groupings to promote and defend their interests. Continuing dialogue between staff and management is indispensable. Management should facilitate this dialogue.

31. Elected staff representatives enjoy rights that derive from their status; this may include the opportunity to address the legislative organs of their organization. These rights should be exercised in a manner that is consistent with the Charter of the United Nations, the UDHR and the international covenants on human rights, and does not undermine the independence and integrity of the international civil service. In using the broad freedom of expression they enjoy, SRs must exercise a sense of responsibility and avoid undue criticism of the organization.

32. **SRs must be protected** against discriminatory or prejudicial treatment based on their status or activities as SRs, both during their term of office and after it has ended. Organizations should avoid unwarranted interference in the administration of their staff unions or associations.”

111. The issue of staff safety and security also featured in the discussions of the proposed new version of the standards of conduct. According to the 2012 ICSC report, when discussing safety and

⁸¹ JIU/REP/2011/10 or A/67/136, para 120-121.

security, the aforementioned working group reviewed a proposal from the staff federations for whom the organizations had the responsibility to make every effort to provide safe and healthy working conditions for their staff. The working group was not able to reach a consensus on this particular issue and a new discussion took place before the ICSC, as reflected in paragraphs 67-70 of its report.⁸² ICSC discussed the appropriateness of including an organization's responsibilities and obligations in the document. It was agreed that a separate document could be developed for that purpose,⁸³ but the decisions of ICSC in paragraph 71 of the report do not allude to such a commitment.

E. From principles to practice

112. Will the formal establishment of an ethics function with adequate resources and mechanisms for implementation (including guaranteed independence for oversight offices, ethics officers, staff counsellors, ombudspersons, mediators and arbitrators) in all organizations concerned, in line with JIU related recommendations further SMR? Will staff-at-large, in general, and SRs, in particular, feel more confident with regard to the accountability of their organizations and colleagues? While comprehensive SRRs and standards of conduct are already in place, much remains to be done – both on the part of MRs and SRs – to ensure that all staff, at all levels internalize enough of those principles to become fully accountable.

⁸² The federations pleaded (without success) that “the proposal reflected the effort to introduce modern principles of risk assessment and management to the standards of conduct, which served as the framework document governing most of what takes place in the international civil service. As United Nations staff were not covered by national legislation, this language represented an important basis for ensuring consistency across the international civil service. The concepts included in the standards of conduct text, which were “practicable preventive and protective measures”, reflected the principles enshrined in the laws existing in most Member States and the basic premise of international norms. The text addressed two issues: responsibility, and means of carrying out responsibility. CCISUA and FICSA noted that the United Nations medical directors had supported the text. It was hoped that the Commission would demonstrate its commitment to ensuring a healthy, safe and secure workplace.” A/67/30, para 67.

⁸³ 2012 ICSC report, A/67/30, para 69.

IX. STAFF-MANAGEMENT RELATIONS AND THE COMMON SYSTEM

A. Mandates

113. Staff-management relations are part and parcel of determining the conditions of service/employment at the (single) organizational level, as well as at the common system level of remunerations and allowances. The two main established institutions in this arena are (a) the HLCM and (b) the ICSC. The HLCM is composed of heads of administration, who prepare the decisions taken by the CEB, on the basis of papers produced by the HRN. Successor of the Consultative Committee on Administrative Questions (Personnel) or CCAQ (PER), the HRN, composed of HR directors, aims to create and support personnel standards throughout the United Nations system, and on behalf of the CEB, to work with the ICSC (see below) to ensure that all parts of the United Nations system work together in harmony in the HR area.

B. SMR at ICSC

114. ICSC was created as a technical advisory body by and for the Member States to coordinate and regulate conditions of service for the entire United Nations system, while the United Nations Joint Staff Pensions Board (UNJSPB) deals in parallel with pensions, the other part of the common system. In concrete terms, ICSC acts as a decision maker on the most technical aspects of its mandate,⁸⁴ and as a proponent and adviser to the United Nations and the governing bodies of the other organizations, to whom it makes recommendations (supposedly) on a purely technical basis.

115. In the Inspector's view, in order to fully take into account the interests of all concerned parties (Member States, staff and management) in all organizations affected by its decisions, the General Assembly (i.e. "Fifth Committee" first of all) and the GBs of the other organizations should either:

- Receive proposals already discussed by representatives of all parties in the organizations concerned via a representative subsidiary tripartite organ, similar to the UNJSPB, with representatives from Member States, management and SRs (through their federations). This avenue, advocated in the past by powerful Member States and some SRs in interviews with JIU, would require substantial institutional reform, far beyond the scope of the present report; or
- Be closely advised by an organ, itself in close contact with representatives of the three parties and informed of their respective interests. The ICSC resembles an organ of this kind, as it is informed, in a balanced way, by MRs and SRs in each organization concerned.

116. The General Assembly decided in its resolution 3357 (XXIX) (18 December 1974), approving the statute and the mandate of the ICSC, to invite the organizations of the United Nations common system to participate in and contribute to the work of the ICSC. An official note to the text of procedural rule 37 calls for a liberal interpretation "with respect for the spirit of the Commission's statute calling for **the fullest possible consultation with EHs and staff**, and for the Commission's express desire for the widest participation in its work."

⁸⁴ The Commission has the authority to decide on the following matters:

- The methodologies for determining conditions of service based on accepted principles;
- The conditions of entitlement, as well as rates of allowances and benefits (other than pensions and those set by the General Assembly);
- Job classification standards (to ensure equal pay for equal work);
- Standards of travel;
- Classification of duty stations for the application of post adjustments (to ensure global equalization of purchasing power) and hardship entitlements (for staff working and living in difficult locations).

117. A role for MRs and SRs is envisaged in the most general manner in article 28 of the ICSC statute:

“1. The Commission shall be given such information as it may require from the organizations for the consideration of any matter under examination by it. It may request from any organization or from SRs written information, estimates or suggestions in regard to such matters.

2. EHs of the organizations and SRs shall have the right, collectively or separately, to present facts and views on any matter within the competence of the Commission. The manner in which this right shall be exercised shall be set out, after consultations with EHs and SRs in the rules of procedure established under article 29.

118. SRs, as defined in rule 1(f) of ICSC rules of procedure,⁸⁵ are officially recognized and mentioned in many articles of the Statute and rules of procedure of the ICSC, often on a par with the “representatives of the organizations” (i.e. management), as summarized hereafter. Rules 5, 6, 8 and 22 mention (often in parallel with the ACC, predecessor to the CEB) the FICSA, with which all staff associations of the organizations of the common system were affiliated until 1982, and CCISUA, established following a split in FICSA membership.⁸⁶ The two texts outline the different ways through which SRs are to be involved in the activities of the ICSC.⁸⁷ On the substance of the work by the Commission, the most important provision of interest for staff is article 26, which endorses the principle that **the acquired rights of the staff**⁸⁸ under the staff regulations of the organizations concerned **shall not suffer any prejudice from the decisions and recommendations of the Commission, nor from their application by the EHs of the organizations.**

119. When participating in working groups, representatives of the staff federations, along with representatives of the organizations and the members of the Commission involved, are full participants and often co-drafters of the report. In spite of these provisions, **staff federations** consider that they have limited impact and/or influence because agreements reached in ICSC working groups can be ignored, reversed or revised by the Commissioners.⁸⁹ Similarly, agreements reached at the HRN can be ignored, reversed or revised by the HLCM. Ultimately, the General Assembly can also ignore, reverse or revise the recommendations of the Commission as has occurred on some occasions over the past two decades.

120. There is unfortunately no obligation at any level for the decision makers to give a written explanation for the reversal of positions agreed upon at a previous stage and/or level. **This distribution of decision-making power is a source of frustration for SRs and MRs**, as it undermines their confidence in the future approval and/or implementation of any mutual agreement. This is important considering that soon after the ICSC began functioning, it decided to study various aspects of personnel policy with a view to **the eventual development of an integrated approach to HR management.** Over the years, the Commission has focused on recruitment, career development,

⁸⁵ “SRs means representatives of the staff of a PO recognized in accordance with the SRRs of the organization or, as the context may require, such representatives from several or from all POs.”

⁸⁶ A grouping of two (formerly three) staff unions (UNFSU and UNDP-UNFPA-UNOPS-SA) from the United Nations Group, called United Nations Civil Servants Federation (UNISERV), resulted from a split within CCISUA in 2007, and appears in few recent official reports of the ICSC.

⁸⁷ The following articles of the ICSC statutes and rules of procedure outline the role of SRs in the ICSC: Articles 4.1, 6.2, 10, 12.2, 17, 24, 25, 28; Rules of procedure 5, 6 (f-h), 36 and 37.

⁸⁸ A notion rarely used within the United Nations texts, but quite important in some national labour legislations.

⁸⁹ The same would hold true for other participants in the Workings Groups, be if the representatives of the organizations or Commissions members involved, i.e. they all faced the risk of having decisions arrived at ignored, versed or revised.

gender balance, staff development and training and performance management to provide overall policy guidance to the organizations.

121. In 2000, the Commission presented to the General Assembly **an integrated framework for HR management**,⁹⁰ highlighting relations in various fields of ICSC activities: compensation and benefits, employment, career management and **good governance**. In addition to management style and the administration of justice, it stressed the **role of SRs**, defined as full involvement in and contributing to all matters relating to personnel/human resources policies and practices. **According to this integrated framework, three principles are to be respected:**

- (a) Organizations should recognize the legitimate role of SRs in representing the views of staff on all matters relating to personnel/HR policies and practices;
- (b) Organizations should ensure that SRs are fully informed on matters affecting conditions of service and consulted on those related to personnel/HR policies and practices;
- (c) Organizations should ensure that appropriate mechanisms are established to provide SRs the opportunity to participate in and influence decisions affecting personnel/HR policies and practices.

122. **The General Assembly welcomed these principles in its resolution 55/223, which “encourages the organizations of the United Nations common system to use the integrated framework as a basis for their future work on HR policies and procedures and to bring it to the attention of their GBs”. In the Inspector’s opinion, these principles should be embedded in the SRRs of all the organizations of the common system**⁹¹. They can be tested against a number of facts presented in this report to see whether and how much they are complied with.

C. Quality of SMR within ICSC and CEB bodies

123. In ICSC, relations between the actors of the consultative process (management and SRBs of United Nations system organizations) have rarely been easy. “The General Assembly has, on several occasions (see resolutions 43/226, 47/216, 48/224 and 50/208), noted its concern over the non-participation of SRs in the work of the Commission. The absence of staff bodies from ICSC proceedings, sporadically since 1988, irrespective of the reasons for the situation, has definitely inhibited the Commission’s work”.⁹²

124. In a succinct note,⁹³ the Secretary-General proposed a review of ICSC⁹⁴ (to be undertaken by a panel whose composition had already been determined), but the General Assembly submitted this exercise to a number of conditions.⁹⁵ In 2000, the report of the Secretary-General on strengthening the international civil service⁹⁶ presented the challenges facing the common system and called for “a reconciliation of the issues that have led one of the international civil service staff associations to decline to participate in the work of the Commission for some time, so as to strengthen collaboration between the Commission and all of its partners.”⁹⁷ It also recalled the limited outcomes of previous efforts⁹⁸ and lamented that the broadest effort made to review the functioning of the Commission to

⁹⁰ Annex II of the report of the ICSC for the year 2000 (A/55/30(SUP)).

⁹¹ For the United Nations the relevant SRRs were presented in annex I of JIU/REP/2011/10.

⁹² Report of the Secretary General on “Strengthening the international civil service” A/55/526, para 18.

⁹³ 54/483, Review of the International Civil Service Commission.

⁹⁴ “Strengthening the international civil service”, report of the Secretary-General (A/55/526).

⁹⁵ General Assembly resolution 54/238 (23 December 1999).

⁹⁶ “Strengthening the international civil service”, report of the Secretary-General (A/55/526).

⁹⁷ *Ibid.*, para 9.

⁹⁸ *Ibid.*, para 15: “The General Assembly also requested ICSC to expand the review of its functioning in consultation with the organizations of the United Nations common system and SRs and to present proposals thereon at its forty-fifth session”.

date “ended inconclusively in 1991 with the Commission unable to accept most of the suggestions proposed by the ACC, and SRs refusing to participate.”⁹⁹

125. Four years later, following a new initiative from the General Assembly¹⁰⁰ and the recommendations of a working group established by the ICSC, the General Assembly took note “of the changes introduced by the Commission in its rules of procedures that could enable all parties to ensure that their views are reflected during all phases of the consideration of all issues.” It also requested the Commission to “monitor the implementation of the revised rules of procedure and to report thereon.”¹⁰¹

126. Later on, the organizations and SRs welcomed the initiative to work with the ICSC on establishing an **integrated framework for HR management** (see para. 122) and to undertake a review of the pay and benefits system.¹⁰² Additionally, a Panel worked¹⁰³ on the strengthening of the international civil service and addressed in its report¹⁰⁴ the issue of the consultative process of the Commission and a sound inclusion of staff federations in this process. While it made no specific analysis of the role of the ICSC in terms of SMR, its first recommendation addressed SMR in two of its three parts, namely that “trust between the Commission and the administration and staff of each organization be enhanced” and that “collaboration between the Commission and its stakeholders – Member States, common system organizations and staff associations – be reinforced.” In its 2004 report, the Commission reacted negatively to the points made in recommendation 1,¹⁰⁵ considered as “non-specific” and stated that it had implemented all of the reforms in its working methods that it had agreed upon in 1998, as well as in prior reviews in light of the resumption of participation in the work of the Commission by CCISUA in 1999 and FICSA in 2001.

127. The Commission took note, inter alia, of recommendations 1 and 3 of the Panel, the latter intending “to formalize practices intended to broaden the consultative process among all parties, both in the establishment of the Commission’s agenda [...] and in the elaboration of documentation” and held the view that “proposed changes in the rules of procedure have now been overtaken by events since modified working methods have been in place for some time, resulting in improved working relations and good cooperation among all parties.” The Commission also took note of the Panel’s recommendation 4 in favour of the use of working groups of partners, making it clear that it will continue to use them when appropriate, for key issues. It squarely opposed recommendation 7 of the Panel to shorten further to 10 days the duration of its sessions.¹⁰⁶

128. In 2007, the Commission published its views with regard to its working methods¹⁰⁷ (together with an action plan) to consider ways to further strengthen the Commission and maximize its ability to support the General Assembly in guiding the common system. It sought to be more proactive through improved relationships with its partners and a focus on strategic planning. One of its four goals was coordination among stakeholders. The General Assembly welcomed these steps in its resolution 62/227. Regrettably, since 2008, the theme of effectiveness and efficiency of the ICSC’s working methods has not appeared in any of the ICSC’s annual reports (except as a work plan presentation), and no progress report on strengthening the role of ICSC and the Action Plan could be found on the ICSC website. General Assembly resolution 63/251 (December 2008) emphasizes that

⁹⁹ Ibid., para 16.

¹⁰⁰ General Assembly resolution 49/223 (23 December 1994).

¹⁰¹ General Assembly Resolution 53/209 (18 December 1998).

¹⁰² Report of the Secretary-General, A/55/526, para 23.

¹⁰³ Pursuant to section IV of General Assembly Resolution 57/285 (20 December 2002).

¹⁰⁴ A/59/153.

¹⁰⁵ A/59/30 (Vol. II) paras 5-6.

¹⁰⁶ Ibid., paras 8, 9 and 12.

¹⁰⁷ A/62/30, chapter VII.

the capacity of the Commission as a source of technical expertise and policy advice should be further strengthened. In the Inspector's opinion, this aspect continues to remain quite relevant.

D. Partners' views as conveyed to the JIU

129. Most of the MRs who replied to the JIU questionnaire (i.e. 10 out of 15) expressed satisfaction with the role of the ICSC and HLCM, and hoped that the exercise of redesigning the modalities and format for exchanging views in the context of HLCM sessions (with dialogue around a few selected items as agreed between the CEB Secretariat and the federations and communicated to HLCM in advance of the session) will yield improvements. Some other managers highlighted the formal and informal opportunities provided to SRs to raise concerns and/or comment on any HR/SMR agenda item/issue under discussion, as subsequently reflected in the final documents. The same applies to the work of various working groups and task forces that may, from time to time, be organized by the ICSC, HLCM and/or HRN to review issues of special importance and/or complexity. The need for timely distribution of documentation was also raised.

130. Responses by the 20 SRBs regarding their experience with the ICSC are limited, given the lack of direct personal involvement of most SRB leaders with the Commission's consultative process. SRBs also noted that they trusted the abilities of their Staff Federations to represent them and to share their knowledge through communication and workshops. The few SRs who had recent interaction with common system bodies also highlighted that "in the current context of financial crisis in many of the larger donor countries, the ICSC has taken much less notice of staff concerns," a worrying observation.

131. By contrast, the same SRs acknowledged recent positive changes in the format of the HLCM, which have transformed it into a much more inclusive process, whereby SRs not only provide written statements, but also participate actively in the relevant parts of the meeting. However, some SRs noted that recent work undertaken to identify cost-cutting and efficiency measures had been carried out without the participation of the Staff Federations, and this should be remedied. The Inspector observes that **real dialogue in good faith among partners is always more necessary in difficult circumstances (including periods of financial austerity).**

E. Addressing existing built-in imbalances

132. The effectiveness of the consultative processes of the ICSC and the CEB bodies (such as HRN and HLCM) when dealing with aspects directly affecting staff welfare depends on the concrete conditions in which the organizations' SRs and MRs can address the issues, that are often quite technical in nature. At the vital early stage where background work is undertaken, while the ICSC has some 48 staff members, FICSA has only one full-time professional staff and CCISUA has none. Thus, federations clearly have insufficient staffing capacity to thoroughly review and fully comprehend the full implications of all pertinent documentation, prepare submissions and technical papers, and participate in meetings that are often held back-to-back in diverse duty stations.

133. In terms of numbers, in practice, each organization sends one representative to HRN meetings (HR Director level), HLCM meetings (Director of Administration level) and ICSC meetings (six missions for a total annual duration of 8 weeks, plus 4 missions of one week each for the two ICSC Working Groups). Usually, 1-3 representatives of the staff federations attend these meetings. In contrast, approximately 25 MRs from the various organizations attend each meeting, while around 10 MRs participate in the ICSC Working Groups. Currently, two SRs are released full-time for a year by their employer organization to FICSA. However, there are no provisions to date in any organization to release an elected SR for the explicit purpose of representing CCISUA. Subsequently, the SR representing CCISUA simultaneously represents the SRB of his/her employer organization as well as CCISUA. SRs in individual organizations have very limited direct access to the ICSC Secretariat.

134. Such imbalances need to be carefully reviewed and addressed through well thought-out means to provide SRs with more direct and balanced access to the common system entities. Two ways to do this would be to (a) address the absence of financial compensation by POs to cover travel costs and DSAs of SRs (currently paid through staff dues to the SRBs) to participate in the meetings of the common system entities; and (b) address the absence of a cost-sharing mechanism among POs on the basis of their respective capacities to pay, to cover the full time release costs of SRs elected to federations.

X. STAFF FEDERATIONS

A. Background, objectives, history, areas of responsibility

135. As civil servants can and do associate themselves with a SRB, the SRBs in turn can and do associate themselves with a Staff Federation. The respective statutes of the federations outline the way they are organized and operate, their governance, internal rules for their operations and internal controls for accountability. Two SRB federations have been formally recognized by the common system organs and have responded to the JIU questionnaire, namely, FICSA (the sole federation from 1952-1982) and CCISUA (operational since 1982). Recognition of FICSA has been extended to CCISUA in General Assembly resolutions, the ICSC Statute and Procedural Rules, and through permission accorded to them to attend and submit papers as observers to ACC, CCAQ, HLCM, HRN, the Inter-Agency Security Management Network (IASMN), related subsidiary bodies and the UNJSPB.¹⁰⁸

136. The statutes of both CCISUA (arts. 1-9) and FICSA (arts. 2-5) make similar references to the United Nations Charter, basic human rights, willingness to assist communication and cooperation among members, defend the international civil service and its independence, as well as the common interests of international civil servants for a total staff population of nearly 40,000 for each Federation. Presently, CCISUA mainly represents SRBs in the United Nations Secretariat and some associated United Nations entities, including the International Criminal Tribunals and United Nations University. By contrast, FICSA mainly represents SRBs in the United Nations specialized agencies (except ILO and UNIDO which are associated with CCISUA). The two SRBs in UNESCO are affiliated to two different federations: ISAU to CCISUA and STU to FICSA.

B. Governance

137. Both federations have a general meeting of their members (the SRBs) during which efforts are made to reach consensus on decisions. They also have linkages with other groupings, not including their own full members: directly for FICSA¹⁰⁹ and indirectly for CCISUA, whose statute reads “participation by any CCISUA member in any other staff grouping shall be possible, provided that their objectives are not inconsistent with the principles and statutes of CCISUA.”

138. The **general meeting** of each federation is called the “Council” for FICSA (meeting in February) and the “General Assembly” for CCISUA (meeting in May). The meetings are held annually to elect, respectively, an Executive Committee of seven members and a Bureau of five members, with provisions to ensure fair representation for every part of the membership. The general meetings serve to gather the positions of their respective constituents. They also serve as a platform for knowledge sharing, particularly to learn from SRs with specialized knowledge in specific SMR realms. Information and communication technology (ICT) facilities such as video- and teleconferencing are used extensively, making it possible for the FICSA Executive Committee to recently

¹⁰⁸ A third self-proclaimed “Federation” called UNISERV did not reply to the JIU questionnaire - despite various attempts and reminders - and is not considered hereafter.

¹⁰⁹ FICSA established, in addition to its full member associations/unions (the only ones having a voting right at its Council), “**associate members**” constituting staff associations/unions of international organizations not belonging to the United Nations family and not applying the terms and conditions of service of the United Nations common system. These associates have their own legislative organs consisting of elected representatives, accept FICSA’s statutes in writing and undertake to respect them (art. 9). FICSA also has “**consultative membership**” for associations/unions of actively employed or retired international civil servants and other similar bodies that do not fulfill the conditions for full membership, but whose aims are similar to those of the Federation members (art. 12). Finally, it grants “**observer**” status (on the recommendation of the Executive Committee) to 27 FUNSAs upon their request (art. 14). See para 69.

meet approximately 20 times in one year. Regular communication with members is also facilitated via their websites.

139. For particularly pressing issues with major ramifications on staff welfare, an Extraordinary General Meeting (EGM) can be convened. Both federations recognize that **currently there exists no mechanism to monitor the implementation of decisions taken by their members during the annual meeting**, where the programme of work for the coming year is decided. The annual accounts of both federations are audited by professional auditors and presented to their entire membership. Upon request, both federations assist members to solve internal conflicts through mediation or conciliation.

C. Federations and the field

140. Relations between federations and staff in field offices depend on their members, the SRBs. While CCISUA claims that all its members make an effort to represent field and national staff issues, FICSA recognizes that the representatives of field and national staff do not enjoy the same level of access to the Federation as international SRs. FICSA obtains information about conditions of service in the field primarily from the FUNSAs, from full members with a substantial field presence, as well as via the FICSA interactive website and participants to the workshops it organizes worldwide, particularly for UNDP field staff. Additionally, in the FICSA Council, there is a standing committee on conditions of service in the field.

D. Financing issues

141. While there are major differences with regards to the financing of the two federations, a common feature is that each Federation is primarily financed through assessed contributions from its member SRBs (CCISUA statute, art. 37-38;¹¹⁰ FICSA financial rules, art. 2) with clear deadlines. However, in its response to the JIU questionnaire, CCISUA stated that “the Federation is financed by voluntary contributions from its members” and that “there is a minimum threshold of US\$2,500.” CCISUA’s budget for 2011 was US\$73,000 and the scale of assessment results from the percentage of staff represented by each SRB.

142. FICSA uses a sophisticated methodology of contribution units to assess its dues. On the basis of the annual budget approved by the Council, dues are weighted according to grade category (GS/P and higher) and location of staff¹¹¹ and applied to all the staff of each organization, the expectation being that they are all contributing. The scale of contributions is approved by the Council according to the proposed activities of the Federation. The total budget for 2011 was 762,947 CHF. This is **approximately ten times the size of the CCISUA budget**, with the rate of exchange of the two currencies (USD-CHF) approaching 1 to 1 at the time of the drafting of the present report.

143. A tentative estimate – provided by FICSA General Secretary and based on FICSA’s 2012 budget – of the cost of the various (21) services it offers is as follows: travel:¹¹² between 92,000 and 120,000

¹¹⁰ 37. The CCISUA budget shall be financed by assessed contribution in United States dollars based on a mutually agreed formula at the CCISUA annual General Assembly.

38. Each union and association member of CCISUA shall pay its assessed contribution into the central CCISUA account within three months of the General Assembly.

¹¹¹ The “Weighting Factor” applied to the number of regular staff (as provided by HLCM statistics) of the various categories and locations is as follows: P-HQ: for P and higher in high pay countries = 1; P-field: for P and higher in low pay duty stations and field duty stations = 0.9; GS-HQ: for GS staff in high-pay countries and high-pay field duty stations = 0.5; GS-field low pay: for GS in low pay headquarters and field duty stations = 0.01; other GS-field: for GS staff in high pay countries and high pay field duty stations = 0.5.

¹¹² Travel cost and DSA to perform representation functions in interagency bodies, legislative organs of the common system including the CEB, HLCM, HRN, Task Forces, ICSC (with its subsidiary organs and working groups) and the UNJSPB where FICSA participates as an observer.

CHF; training activities (for capacity-building and SRs, on HR, legal, pension and social security, and salary matters): approximately 70,000 CHF; legal services for members: 10,000 CHF; regional workshops: more than 20,000 CHF.

144. However, the principal cost incurred by FICSA relates to operating the FICSA Secretariat, without which the aforementioned activities could not be organized. It comprises one full-time P4, one GS6 at 80 per cent, two GS4 at 50 per cent each, and one accounting consultant (working 16 hours a month): altogether, a total salary cost of approximately 500,000 CHF. Additional operational expenditures totaling 80,000 CHF include: renting office space at UNOG (8,000 CHF), website hosting, office equipment, international calls and pouch service. A proper costing of the resources available and indispensable to FICSA should take into account the full paid time release of its President and General Secretary by their respective organizations. The elected officers keep the same grade and step as they had in their organization(s), which continues to pay their respective salaries. These two posts ranged from GS5 to D1 in the past.

145. Contrary to articles 31-32 of its statute which outline a role for its Secretariat, CCISUA is yet to have one in practice, a situation which presents multiple challenges with regard to its operations, including adequately preserving institutional memory. The current provision in the CCISUA statute (art. 21) that its president be chosen from one of the present SRB leaders further limits the staffing capacity of the federation, as the President must then perform dual leadership roles. The main reasoning behind this provision arises from the fact that the EHs of the POs are unwilling to take on the shared burden of funding SRs to perform staff representational roles at the common system level, despite the ICSC statutes and rules clearly and officially outlining such roles for SRs at this level (see para. 119).

146. It is inconsistent to have only some organizations paying for the full time release of SRs who work for federations and thus represent the interests of staff in all organizations of the common system (see paras. 133-135). While **there is certainly a need for a burden sharing formula for their full time release**, the current practice should continue until such a new mechanism is in place. Additionally, consideration should be given by the releasing organization to (a) allowing SRs to accrue service time while they are on release to a staff federation (i.e. it should not be viewed as a break in service); and (b) the right of return of SRs to their post, upon completion of federation duties. With the ICSC budget already being a part of the United Nations budget section on “Jointly Financed Activities”, the Inspector considers that a decision should be taken to dedicate a budget line to compensate those performing the official and indispensable role of SRs for the sake of the common system through the federations. The implementation of the following recommendation is expected to enhance the effectiveness of staff representation at the common system level.

Recommendation 8

The legislative or Governing Bodies of the organizations under review should mandate their Executive Heads to prioritize the development of a burden-sharing formula and agreement with regard to financing all costs associated with the representational function of officials of staff federations that are recognized in the ICSC statutes and rules of procedures.

E. The way forward: cooperating and converging federations

147. Considering the aims, values and ideologies of the two federations, the quality of what they both bring to staff-management relations, the obvious complementarity of their memberships and the additional costs generated through the duplication of roles and missions – particularly with regards to the common system bodies, **SRs and MRs have questioned the added value of having two federations**. It is thus positive to note that officials in the two federations have increasingly cooperated in recent years to present (similar) views on common system issues.

148. While a move by the present federations and their members towards a unified federation would certainly take time to implement, **the Inspector wishes to suggest to all SRBs in the United Nations system that reasonable steps be taken to conduct an in-depth evaluation of all services needed from a unified federation and the corresponding costs, on the basis of past experience. A transition period and path to integration may be designed and worked on jointly, with an established limited time frame.** A common secretariat would be an obvious need, but each of its component elements should be carefully re-evaluated in terms of costs as well as benefits. Only after the aforementioned steps have been accomplished could a new and simple system of contributions by SRBs be designed and established. Any decisions taken in this regard would have to reflect a joint approach among SRs in both federations. During the intervening years, strong symbolic action and prospective exchanges of views should be encouraged, such as the invitation issued in 2012 by CCISUA for a high-level FICSA representation at in the CCISUA general meeting.

XI. ACCESS TO AND ROLE OF MEMBER STATES IN SMR

149. Similar to the case of the United Nations Secretariat,¹¹³ access to Member States in most United Nations specialized agencies is generally limited to presenting written/oral statements in the meetings of the relevant organs¹¹⁴ of their respective legislative/GBs, usually once or twice a year. However, **formal written provisions guaranteeing such access to Member States do not exist for SRBs of at least seven organizations** (IAEA-SA, ICAO-SA, IMO-SU, ITC-SC, ITU-SC, ITU-SU, UPU, WFP-PSA, WFP-UGSS, WIPO-SA).¹¹⁵ Consequently, these SRBs have to go through their respective EHs each time they want to communicate with their GBs, and are thus effectively held captive to the goodwill of the EH or the Chair of the GB concerned. Even when they receive access (whether formal or ad hoc), some SRBs noted that the brief amount of time they are allocated to make statements (often 3-5 minutes) was insufficient to adequately inform Member States on SMR challenges. Often, no discussions would take place on the statements delivered, which would generally appear among the final sub-items under administrative questions, rather than as a stand-alone topic.

150. Based on responses to the JIU questionnaire, MRs in 10 organizations¹¹⁶ gave a more positive rating than SRBs on the extent to which Member States are informed of and updated on SMR issues. In WMO, both SRs and MRs gave the same rating (good), while in WHO SRs gave a more positive rating (good) than management (average). While both sides acknowledged that Member States were generally not interested in micromanaging SMR, considering such matters as internal, some SRBs (in FAO, ILO and WFP) alleged an existing/growing tendency by Member States towards micromanagement, particularly due to the current financial crisis and the desire to cut costs. On the other hand, WHO-HQ-SA noted that precisely because of the organization's ongoing reform, WHO Member States have become more informed about SMR issues and give greater recognition to the role of the WHO-HQ-SA, viewing it as an important player in the reform process. The WHO-HQ-SA was granted access to the Programme, Budget and Administration Committee (PBAC) of the WHO Executive Board (EB) for the very first time in January 2012, even though it had requested such access as far back as 1993. UPU-IBSA, for its part, lamented that UPU Member States did not exercise sufficient oversight.

151. Despite the challenges, **examples of useful practices** that can further the awareness of Member States on SMR issues also abound:

- In WHO, where SRBs address the Executive Board twice a year (January and May), the May address is made by the WHO-HQ-SA, and the one in January by one of the six regional SRBs. This represents a good practice to ensure that Member States are also aware of the concerns of staff outside headquarters;
- In ITU, the Tripartite Group on HR Management brings together representatives of the Member States, ITU administration and the Staff Council, with the responsibility of preparing items to be submitted to the annual Council session on HR issues, which could include reporting on the state of SMR in the organization;
- UNESCO-STU proactively sends copies of its newsletters to Member States in order to keep them informed of on-going SMR developments;
- Beyond the provision of formal written access is **the need for genuine valuation of SRBs by Member States**. UNAIDS-SSA and WMO-SA – both of whom highly commend the role of their Member States, stressed that their Member States always took their views into account; were willing to engage in dialogue; provided excellent support; and valued the commitment and

¹¹³ JIU/REP/2011/10, paras 148-152.

¹¹⁴ Typically the Programme, Finance, Budget and Administration Committees.

¹¹⁵ ITU-SU has alleged that MS in ITU relinquished their recognition of the Union in 1992 following a strike organized by ITU-SU to contest working conditions.

¹¹⁶ FAO, IAEA, ILO, IMO, ITC, ITU, UNESCO, UNIDO, UPU, WIPO.

professionalism of staff and SRs. AP-in-FAO also noted that SRs have met with members of the FAO Council in recent years and its general impression was that this was appreciated by both parties.

152. Overall, while a role for Member States is necessary to further checks and balances (between MRs, SRs and Member States delegates), **SRBs were unanimous in their conclusion that Member States should not micromanage SMR.** They outlined a number of useful measures for constructive engagement by and with Member States in this realm:

- Member States of each organization should mandate the respective EHs to report to them on an annual basis on the status of SMR (issues, processes, progress) organization-wide; where SRBs do not yet address the Board/GB, Member States should invite the SRB to submit reports and make oral statements;
- Management should regularize informal meetings with SRBs, particularly before (to concretize common positions) and after (to agree on steps to implement decisions) meetings of the GB;
- Given that cost-savings are a major concern for Member States in the light of the on-going financial crisis, **Member States could significantly reduce litigation costs by establishing/strengthening pre-emptive conflict/dispute resolution mechanisms**, such as mediators or ombudsmen who could potentially resolve disputes before they escalate to the level of formal legal proceedings before the ILOAT, where the financial burden of conducting a case averages tens of thousands of dollars (or more if the ILOAT rules against the organization). Such savings can certainly be attained through good-faith SMR.

153. The implementation of the following recommendation is expected to enhance coordination and cooperation between Member States, management and SRs.¹¹⁷

Recommendation 9

In the organizations under review where formal provisions do not yet exist, the legislative/Governing Bodies should adopt regulations granting SRBs the right to effectively present statements during meetings of relevant inter-governmental organs dealing with issues related to staff welfare.

¹¹⁷ The following are selected comments received from management in two POs in reaction to Rec. 9:

IAEA: “Annually, the draft Programme and Budget Committee (PBC) Agenda includes an item that proposes that the President of Staff Council address the meeting. The PBC has always approved this Agenda item, and invited the President to speak at such meetings. If requested, and if there were a need, it is likely that the Board would allow the President to address another meeting of the Board.”

UNIDO: In “IDB1/Res.1 entitled “Access by staff representatives to the Industrial Development Board” the Board confirmed its readiness to receive and consider fully the views of the staff as set out by a single recognized representative of the Staff of the UNIDO Secretariat in a document submitted through the Director-General, who may submit written comments on the document, under the agenda item entitled “Personnel questions”. The Board also decided that “to assist its deliberations, the Board, may, if considered desirable, invite a single recognized representative of the Staff of the UNIDO Secretariat to make an oral presentation to the Board to introduce, at the beginning of the Board’s consideration of the relevant agenda item, the document” referred to above. The access of Staff Council to the IDB is not spelt out in the UNIDO Staff Regulations and Rules, however, in practice documents have regularly been submitted to the Board.”

XII. CONCLUSIONS

A. Lessons learned

154. In conclusion to the two reports on staff–management relations in the United Nations system organizations (JIU/REP/2011/10 and JIU/REP/2012/10), or the perceptions thereof, the Inspector would like to highlight the elements which, based on the interviews conducted with both staff and management, appear to be key for the success or failure of SMR. As noted earlier, the content of chapter VII of JIU/REP/2011/10, entitled Accountability for all, is applicable to all actors involved in SMR across the entire UN system. **The most important aspect is management’s conviction, particularly the Executive Heads’ conviction, of the critical importance of SMR** for the overall management of the organizations/entities. This implies:

- **Sound and professional HR management** with, where possible, direct contact or a reporting line between the HR Director and the EH;
- **Medium- and long-term strategic vision - to be shared and discussed with SRs as well as MRs** – at the organizational and inter-agency level, of the interests of the organization(s), rather than a series of unilateral (and at times short-sighted) decisions conceived and implemented under pressure;
- **High quality SMR for the effective management of HR**, particularly needed in times of difficult budgetary constraints and extra budgetary shortages.

155. It is not coincidental that **where these relations are considered good or excellent by both staff and management, contacts between HR and SRB representatives are regular, frequent, informal as well as formal, and encouraged by an open-door policy**. A key factor in SMR is the tone set by senior management and the presiding officers of the SRB; where the tone set is targeted towards discussion, negotiation and resolution of problems, the results will be positive for the staff and the organization. At the same time, both parties must understand that SMR does not mean co-management, but rather good-faith consultation or negotiation on staff welfare issues.

156. In addition, throughout the United Nations system, the organizational culture is such that the example from the top quickly cascades along the hierarchical lines to the entire organization. For that reason such examples should be constructive and positive. However, where good faith is lacking in either side, it becomes very challenging to create confidence. Line managers are, at times, adverse to any involvement in resolving HRM or SMR issues, either because they perceive such situations as potentially creating new problems for themselves or because they do not feel adequately equipped to resolve them. In either case, this represents a lost opportunity for constructive SMR – as line managers work on a daily basis with staff and are thus well placed to address challenges at an early stage. Consequently, the role of management with regard to dealing with HRM and SRM issues should reflect a partnership between line managers and senior HR management.

157. SRs, in their individual capacities, should have good communication skills; be good listeners and negotiators; have a thorough understanding of how their respective organizations work; and be oriented towards the general welfare of staff-at-large. They must:

- Have a strong sense of personal and collective (SRB level) responsibility toward their partners in negotiations and consultations, as well as towards their constituents;
- Be willing to be fully informed and trained, individually or as a team, in the austere technicalities of the HR and common system methodology and the organization/entity’s legal framework;
- Be available and accessible to all their constituents, especially those in field offices, particularly when they themselves benefit from paid time release.

158. Beyond professional knowledge and competences, **good quality SMR requires from both staff and management, a mutual respect** of the person as well as his/her official representational

function. Such conduct is not only a matter of ethics; **good faith is primarily a matter of professionalism.** Mutual respect often becomes challenging in SMR processes due to the usual divergences of immediate interests and the frequent differences of grades among partners, as the United Nations system organizations are operating in a common culture which overemphasizes (unconsciously) the importance given to a person's grade in the organization. However, the Inspector is of the view that good quality SMR, characterized by mutual respect and professionalism, can and does exist, having observed it among both staff and management in some organizations.

159. The Inspector was struck by the **repeated assertions of fear** to either engage publicly in any staff union or action or to take on a representational role, that was expressed by many interviewees, particularly those with a precarious contractual status. **Fear of retaliation by management in United Nations organizations reveals a serious lack of trust and sends a troubling message.** A return to balanced SMR necessitates strong messages and examples – including from senior management – to dispel such perceptions. Determined actions should be taken to empower the most vulnerable staff members, in particular through training and knowledge sharing. SRBs and Federations should play their role in this regard (as they sometimes already do), as should Member States delegates, officials of common system organs, and members of ICSC, HLCM and HRN – all of whom have a role to play in furthering constructive SMR.

B. The way forward

160. The last 20 years have seen the growth of the workforce serving the international organizations in general and the United Nations system in particular, but also its diversification, fragmentation and the multiplication of “non-staff” contractual arrangements, which undermines the common system built by previous generations. The time has come for all – EHs, organs of the common system and SRBs – to face the reality that **“non-staff” are no longer marginal, but rather constitute a significant proportion of the labour force in the organizations,** and reflect accordingly on how best to adjust to the changing reality, guarantee a minimum level of protection and rights for such employees, through staff and non-staff–management relations.

161. Fostering SMR also necessitates **paying more attention to the concerns and challenges that the labour force faces in field offices.** Some initiatives have already been undertaken by various SRBs and Federations to conduct workshops and training sessions for field staff, but such efforts need to be greatly expanded and regular contacts improved to better represent their concerns during discussions with management. Management, for its part, should ensure that all staff – particularly those based in the field – develop an **understanding of basic SMR issues.** It was clear from the interviews conducted by the Inspector that many field staff were not even aware of their basic rights and responsibilities as staff members. Consultations and negotiations should be focussed on arriving at a consensus or exchanging positions on policy issues, rather than on specific draft documents. This would reduce significantly the time needed for those processes.

162. Another major finding of this report is that quality SMR cannot be attained without competent SRs volunteering in sufficient numbers – especially not without enough of them being available to listen, study, consult and negotiate on behalf of their respective constituents. If representational functions deserve to be compensated at the organization level as provided for in existing enabling texts, the same reasoning is fully applicable to staff representation at the common system level.

Annex I
Governance structure of SRBs

Organization		General Assembly			Staff Council/Committee			Bureau		
		Open to all staff members	Frequency	Quorum to hold ordinary session*	Number of statutory members	Frequency of meetings in practice	Quorum**	Number of statutory members	Frequency of meetings in practice	Quorum***
FAO	UGSS	Y	yearly	33% of members	15	weekly	>50%	7	weekly (often merged with SC meetings)	>50%
	AoP	Y	yearly	None	37	every two months	>50%	10	weekly	>50%
IAEA		Y	yearly	None	32 (members); 32 (alternates)	every two months	>50%	11	monthly	>50%
ICAO		N	yearly	15%	9	weekly	>50%	NA	NA	NA
ILO		Y	twice a year	10%	21	every two weeks	none	8	weekly	none
IMO		Y	yearly	25%	6	every two weeks	50%	4	every two weeks	100%
ITC		Y	yearly	25%	> 5	every two months	>50%	-	-	-
ITU	SC	Y	yearly	10%	32	every two weeks	>50%	6	as needed	50%
	SU	Y	yearly	>50%	8	weekly	>50%	8	weekly	>50%
UNAIDS		Y	yearly	none	15	every two weeks (VTC)	>50%	4	with SC meetings	NA
UNESCO	STU	Y	yearly	no	20	monthly	none	5	-	-
	ISAU	Y	yearly	33% of members	40	twice a year	66%	15	weekly	33%
UNIDO		Y	yearly	3%	16	weekly	>50%	5	as needed	none
UNWTO		Y	yearly	33%	4 to 7	as needed	>50%	4 to 7	-	-
UPU		N	yearly	33%	7	-	>50%	-	-	-
WIPO		Y	yearly	15%	7 to 10	weekly	>50%	NA	as needed	NA
WHO HQ		Y	yearly	-	20	three times per week	none	6	weekly	-
WMO		Y	yearly	40%	10	every two weeks	50%	4	every two weeks	none
WFP	UGSS	N	yearly	33%	15	weekly	>50%	7	weekly	50%
	PSA	N	yearly	-	11	monthly	>50%	5	monthly	>50%

* as % of members

** as % of representatives

*** as % of bureau members

Cells marked with a dash (-): no information available.

Sources: SRB statutes and responses to JIU questionnaires.

**Annex II
Electoral System of SRBs**

		Allocation of representatives (as per GS/P, duty station, electoral unit)	Duration of the term (in years)	Term limitation	Proportion of seats to be filled at each election	"Who is electing the staff representatives for the joint bodies to their functions?"
FAO	<i>AoP</i>	P-staff from electoral unit including regional (non/HQ) groups	2	2	100%	AP-in-FAO nominates its' own Members/Alternates on most joint staff/management committees except for Pension & Appeals Committees who are elected by staff; on other committees such as the Professional Staff Selection Committee AP-in-FAO proposes names jointly with the departments to the Director-General for his final decision
	<i>UGSS</i>	GS staff	2	none	50%	ExCom appoints but staff at large elect to appeals committee and pension committee
IAEA		1 vote per electoral unit (32 electoral units)	2	none	100%	Staff at large and Staff Council depending upon the joint body
ICAO		6 GS and 6 P (1 of each cat being from a Regional Office)	2	none	50%	Staff Council
ILO		16 from HQ, 5 titular members from 4 geographical areas and Turin	2	none	50% for HQ	Staff Union Committee
IMO		None	2	none	50%	Staff Committee members
ITC		1 per 30 staff members, only HQ	2	none	100%	Before 1/01/2012 the staff As of 01/01/2012 the staff council
ITU	<i>SC</i>	None	2	3	100%	Staff at large
	<i>SU</i>	None	2	none	50%	Staff at large
UNAIDS		8 from Geneva, 7 from country offices	2	none	50%	Committee members
UNESCO	<i>STU</i>	not more than 5 members sharing the same nationality	2	-	-	-
	<i>ISAU</i>	8 per Geo-cultural Group**	2	none	100%	Staff Council
UNIDO		based on the number of staff in electoral unit	2	none	100%	Staff Council
UNWTO		-	1	2	-	-
UPU		1 P5, 2 P1 to P4, 3 GS, 1 to a non UN contract holder	1	none	100%	Staff for committee members and staff association members for Chair
WIPO		None	2	none	> 50%	Staff at large
WHO		<i>HQ</i> at least 5 GS and 5 P	2	none	50%	Staff at large
WMO		G/P balanced at the duty station	2	2	50%	Staff at large
WFP	<i>PSA</i>	P staff only (approximately 50% from HQ, 50% from the fields)	2	2*	50%	Staff Council
	<i>UGSS</i>	GS Staff only	1 or 2	none	NA	ExCom appoint them

* At least one year break after serving two terms.

** ISAU members are represented within five Geo-cultural groups: Africa; Latin America and Caribbean; Asia Pacific; Arabic States; Europe and North America (ISAU statute, Article 6).

Cells marked with a dash (-): no information available.

Sources: SRB statutes and responses to JIU questionnaires.

Annex III
SRB Membership and Electoral Participation

		Staff members eligible for membership (Dec. 2010)	Dues paying members (2011)	Number or percentage of voters (most recent SRB elections)
FAO	AoP	1884	618	257
	UGSS	986 ¹¹⁸	465	52,41%
IAEA		2220	1500	-
ICAO		700	505	-
ILO		2990	2018	628
IMO		295	235	193
ITC		269	266	158 or 65% (July 2011)
ITU	SC	738	11	291
	SU		360	106
UNAIDS		950 (approx.)	470 (approx.)	260
UNESCO	STU	1958	-	-
	ISAU		380	170
UNIDO		719	477	168
UNWTO		95	72	-
UPU		259	138 ¹¹⁹	30% (of SA members)
WIPO		923	675	322
WHO	HQ	1025	-	962
WMO		271	149	160
WFP	PSA	1500 (approx.)	740	295 ¹²⁰
	UGSS	483 ¹²¹	185	52,41%

Cells marked with a dash (-): no information available.

Sources: SRB responses to JIU questionnaires.

¹¹⁸ Only GS-staff in FAO HQ and its liaison officers are eligible for membership.

¹¹⁹ 75 paying members are retirees and therefore not UPU staff.

¹²⁰ Only dues paying members are eligible to vote in WFP-PSA elections.

¹²¹ Only GS-staff in WFP HQ are eligible for membership.

Annex IV
Facilities and release for staff representational functions

		Secondment or regular post for administrative tasks (A)	Secondment or regular post in FTE (A)	Full time equivalent (FTE) releases (B)	Distribution of staff releases in FTE	Total FTE (A+B)
FAO	UGSS	1 GS 50%	0.5	2.1	1 SR 50% + 6 SR 20% + 8 SR 5%	2.6
	AoP	None	0	2.6	3 SR 30% + 4 SR 20% + 3 SR 30%	2.6
IAEA		1 G5	1	1	100% (chair) + 100% (Administrative Assistant)	2
ICAO		1 50% G4	0.5	0.5	50% (chair)	1
ILO¹²²		1 G6	1	2,5 + ad hoc basis	100% (chair) + 50% (Vice-Chair) + 100% (General Secretary) + ad hoc basis	> 3,5
IMO		1 P4 and 1 G6	2	0.25	25% (chair)	2.25
ITC		None	0	0.5 (+ ad hoc basis)	50% (chair)	> 0.5
ITU	SC	1 G5	1	0.8	50 % (chair) + 30% (secretary)	1.8
	SU	None	0	none	none	none
UNAIDS		2 50% G6	1	2.3	50% (chair) + 50% (vice chair) + 13 SR 10%	3.3
UNESCO	STU	1 G7, 1 50% G4	1.5	1	100% (chair)	5
	AIPU	1 G6, 1 50% G4	1.5	1	100% (chair)	
UNIDO		1 G6	1	2	100% (chair) + 100% (secretary)	3
UNWTO		None	0	none	none	none
UPU		None	0	none	none	none
WIPO		1 80% G6	0.8	2	2 100% SR	2.8
WHO	HQ	1 50% G5	0.5	1	100% (chair) ¹²³	1,5
WMO		1 50% G4	0.5	1 + ad hoc basis	50% (chair) + 50% (secretary) + ad hoc for the other SR	> 1.5
WFP	UGSS	None	0	ad-hoc basis	reasonable time off ¹²⁴	ad-hoc
	PSA	None	0	3	100% (chair) + 10 SR 20%	3

Sources: JIU meeting minutes and responses to JIU questionnaires

¹²² ILO management response on release time for ILO-SU: “The extent of release to be granted to SU representatives includes thirty (30) work-months per year to be granted to SU Committee members at HQ to discharge their functions in this regard. Furthermore, members of the SU Committee at HQ shall be released from their duties to attend meetings of the Committee normally one half day per week. Upon request and approval by the responsible chief, SU representatives may also be granted special leave with pay to attend meetings convened by or on behalf of the SU Committee (see Circular 448).”

¹²³ 100% allocated by management; 50% used by chair for staff representational work; remaining 50% used by people to help him carry out his technical professional work.

¹²⁴ WFP-UGSS comment: “We used to have 20% time off as per a verbal agreement between the former chair of UGSS and the former Director of HR. Since both of them left the Programme, the Staff Relation Officer is not recognizing the verbal agreement and re-established the reasonable time off (instead of 20%) according to the Recognition Agreement between WFP and UGSS.”

Annex V
Staff surveys conducted in each organization

	Staff Survey	Date	By	Number of respondents	Response rate
FAO	Y	2011	private company	4715	77%
IAEA	Y	2001 and 2004	management	-	-
ICAO	Y	2005, 2009 & 2011	SRB	519 (2005), 284 (2011)	69% (2005), 41% (2011)
ILO	Y	2010	SRB	-	-
		2011	management	-	-
IMO	Y	2009	management	160	50%
ITC	Y	2009	UN OIOS	139	52%
		2012	private company	148	56%
ITU	N	-	-	-	-
UNAIDS	Y	-	SRB and management	-	-
UNESCO	Y	2010	management	1226	30%
UNIDO	Y	2008, 2010	SRB and management (2008 survey)	-	-
UNWTO	N	-	-	-	-
UPU	Y	2011	management	112	44%
WIPO	Y	-	management	-	-
WHO	Y	2012	SRB	1029	51%
WMO	Y	2008	management	-	-
WFP	Y	2010	management	192	-

Cells marked with a dash (-): no information available.

Source: JIU meeting minutes and documents sent by organizations

Annex VI

Overview of action to be taken by participating organizations on the recommendations of the Joint Inspection Unit

	Intended impact	<u>United Nations, its funds and programmes</u>												<u>Specialized agencies, IAEA and ITC</u>																
		United Nations*	UNCTAD	UNDP	UNEP	UNFPA	UN-Habitat	UNHCR	UNICEF	UNODC	UNOPS	UNRWA	UN Women	WFP	FAO	IAEA	ICAO	ILO	IMO	ITC	ITU	UNAIDS	UNESCO	UNIDO	UNWTO	UPU	WIPO	WHO	WMO	
	For action	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	For information	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recommendation 1	a												E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Recommendation 2	c												E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Recommendation 3	e												E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Recommendation 4	c												E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Recommendation 5	a												L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Recommendation 6	c												E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Recommendation 7	e												E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	
Recommendation 8	e												L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Recommendation 9	c												L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	

Legend: **L:** Recommendation for decision by legislative organ
E: Recommendation for action by executive head
 Recommendation does not require action by this organization

Intended impact: **a:** enhanced accountability **b:** dissemination of best practices **c:** enhanced coordination and cooperation **d:** enhanced controls and compliance **e:** enhanced effectiveness **f:** significant financial savings **g:** enhanced efficiency **o:** other

* Covers all entities listed in ST/SGB/2002/11 other than UNCTAD, UNODC, UNEP, UN-Habitat, UNHCR, UNRWA.