

Approved on behalf of the Secretary-General.
Chef de Cabinet



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22/08/14

REPORT

SESSION III OF THE STAFF-MANAGEMENT COMMITTEE

Valencia
24 to 29 June 2014

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Report of the Third Session of the Staff-Management Committee

I. Introduction

1. The third session of the Staff-Management Committee (SMC) took place from 24 to 29 June 2014 in Valencia, Spain.
2. The new President of SMC III, Mr. David Yeandle, formally opened the session on 24 June 2014, thanking the participants for their presence in Valencia. He also thanked Mr. Ismet Traljic, the OIC of UN Support Base in Valencia (UNSB), for hosting the SMC III. The President welcomed the newcomers to the Committee and also welcomed the new Legal Adviser for the SMC, Mr. Stadler Trengove of OLA, and the new Secretary, Ms. Yuko Muramatsu of DM. The President then asked all attendees to stand for a minute's silence in memory of Ms. Nicole Bergener-Guimaraes, an active member of the SMC, who had passed away during the year.
3. The President invited Mr. Yukio Takasu, Under-Secretary-General for Management, to deliver the welcome statement on behalf of the Secretary-General. The Secretary-General expressed his pleasure that the Staff and the Management had come together under the new framework for constructive work and cooperation. He welcomed the new President and wished him every success. (*The statement of the Secretary-General is attached as SMC III, Annex II/Appendix 1*).
4. Mr. Takasu then delivered his statement in his capacity as the Under-Secretary-General for Management. He welcomed the new President, Secretary and Legal Adviser. He affirmed the pledge to work with trust and to be open minded, and thanked all those who had worked constructively in the Working Group to develop the new framework for the SMC. He also thanked those who had facilitated the training workshop for SMC members held on the day before the opening of the session. (*The full statement of Mr. Takasu, is attached as SMC III, Annex II/Appendix 2*)
5. The President proceeded with his opening remarks on the occasion of the third session of the SMC. He thanked everyone for their warm welcome, expressed his honor to take up the new role and stressed the need for an independent and impartial President for such an important committee. He then shared with the SMC his professional and personal background. (*The full statement of the President is attached as SMC III, Annex II/Appendix 3*)

Election of Vice-President

6. The President requested nominations for the Office of the Vice-President of the SMC. The Staff nominated Mr. Ian Richards. In the absence of other nominations, the President congratulated Mr. Richards on his election and wished him well.
7. Following the election for the Vice-President, Mr. Egor Ovcharenko requested the floor to deliver a short statement on "UNSU Position of Principle". (*The statement is attached as SMC III, Annex II/Appendix 5*)

8. The elected Vice-President, Mr. Richards, delivered his statement in which he briefly spoke about the new framework for continuous SMC consultations throughout the year and the numerous subjects on this session's agenda. (*The statement is attached as SMC III, Annex II/Appendix 4*)

Rapporteurs

9. The President called for the appointment of rapporteurs. Staff appointed Mr. Nadir Dirar and Mr. Abraham Tameru and Management appointed Ms. Hazel Scott and Mr. David Iyamah.

3x3 Contact Group

10. The President called for the appointment of the 3x3 Contact Group members. Staff appointed Mr. James Ohayo, Mr. Georges Younes and Ms. Therese Bjork and Management appointed Ms. Ruth de Miranda, Mr. Peter Van Laere, and Mr. Anthony Duncker.

II. Organization of work

11. Upon the invitation of the President, the Committee adopted the agenda of the SMC III, (attached as Annex I/Appendix 1), as amended based on the proposals and agreements by the Committee.
12. The list of documents made available to the members before and during the SMC session is contained in SMC III Annex I/Appendix 3. The list of participants of the session is contained in SMC III, Annex I/Appendix 2.

III. Rules of Procedure and Administrative Instruction on SMC

13. Management reported that the Secretary-General had appointed a joint "SMC Working Group on the Staff Management Committee (WG)." This WG had been tasked to "develop recommendations for consideration by the Secretary-General on the process or modalities by which the Staff-Management Committee will endeavor to reach agreement on advice and recommendations to be presented to the Secretary-General within the Staff-Management Committee, and, where there is disagreement in the Committee, recommendations on the process or modalities by which Staff and Management would work to overcome the barriers to agreement."
14. Following many meetings and consultations, the WG had agreed on a range of processes and principles that would guide and enhance the work of the SMC within the framework of the Secretary-General's bulletin ST/SGB/2011/6/Rev. 1. The key recommendations of the WG, which were to be set out in an administrative issuance and/or Rules of Procedure, as appropriate, had been endorsed by the Secretary-General. A draft Administrative Instruction (ST/AI) had been developed and required consultations with the relevant stakeholders.

15. Likewise, draft Rules of Procedure for the SMC had been developed on the basis of section 7.1 of ST/SGB/2011/6/Rev. 1, for consideration by the SMC.
16. The draft ST/AI reflects the key principles agreed upon and sets out further details on the framework under which the SMC will operate and seek to find agreement or overcome barriers to agreement of views. It further sets out the frequency of sessions and meetings for a continuous exchange within the SMC; thereby moving away from the former modus operandi of having only an annual session.
17. The language in the draft ST/AI had largely been agreed in the Working Group discussions between Staff and Management, with the exception of sections 1.3 and 7.1.
18. Following discussion on the wording of section 1.3 of the draft ST/AI, Management indicated that it was prepared to agree to a rewording of section 1.3 in order to align it to the provision in ST/AI/293 subject to the proviso that the Report of the SMC reflected their view that matters under the new ST/AI on the SMC were not subject to appeal to the UNDT or UNAT. Staff stated that, in their view, this draft provision in section 1.3 was redundant.
19. The Management proposal was agreed by the Staff and the revised version of section 1.3 was therefore incorporated into the draft ST/AI on the SMC, subject to the proviso that is set out in the preceding paragraph of this Report.
20. After further discussions on the wording of section 7.1 (budget), the SMC also found wording that was agreed by both sides.

21. The SMC agreed on the final language to be reflected in ST/AI/2014/XX (The document is attached as SMC III, Annex III/Appendix 2).

22. Following adoption of the wording of the ST/AI, the Under-Secretary-General for Management, as the authorized official to promulgate Administrative Instructions, expressed his willingness to promulgate the ST/AI.
23. Management then presented the Rules of Procedure that complement the existing procedural provisions in ST/SGB/2011/6/Rev. 1 and the agreed ST/AI on the SMC. These Rules of Procedure focus primarily on the conduct of efficient meetings and sessions and address the opening and closing of sessions, meetings and individual agenda items, as well as the facilitation of debates through the President, including motions that members can submit and raise as points of procedure and order.
24. Staff had provided some additional feedback on the draft language in the Rules of Procedure that had not been fully resolved at the Working Group level. Following further discussions and drafting consultations on some provisions by representatives of Staff and Management with the support of the Legal Adviser, a final draft version was presented to the SMC.

25. The SMC agreed to adopt the Rules of Procedure for the SMC with effect from 24 June 2014. (The document is attached as SMC III, Annex III/Appendix 1).

26. *The President then closed the discussion on this item.*

IV. Follow-up Report on the Implementation of SMCC/SMC Agreements

27. A member of the Contact Group briefed the Committee on the status of the implementations of the agreements reached at previous SMCC and SMC sessions.

28. The status of those agreements was amended. This updated status is reflected in Annex III/Appendixes 3, 4 and 5.

29. The SMC will continue to consider how to handle items that are still outstanding in future SMC sessions and meetings.

30. *The President then closed the discussion on this item.*

V. General Service and Related Categories: New Global GS Online Test (GGST)

31. Management briefed the Committee on the progress that had been made on the development of the Global GS Test (GGST). It presented the components and structure of the test, the findings of the pilot and the proposed roll-out plan.

32. Staff noted that the pilot had been conducted in nine UN entities in six duty stations in April 2014 and had received positive feedback from the participants. They also noted that the test will be launched on 15 July 2014 in New York and rolled out in phases in other duty stations. Staff welcomed that the test will be computer based and requested that it be developed in languages other than English and French, if required, and that a re-testing policy be developed.

33. The SMC agreed to endorse the development of the new online test, with global roll-out to begin on 15 July 2014. Management will explore the necessity of having the test in other languages. Management will also explore/revisit the re-testing policy that has been proposed.

34. *The relevant documents are attached as SMC III, Annex III/Appendixes 7 and 8.*

35. *The President then closed the discussion on this item.*

VI. Transition Management – GS and Related Categories Job Openings

36. Management introduced the topic in the context of mitigating any impact that the

implementation of Umoja may have on staff in the GS and related categories. The main policy directive in this context is that positions in the GS and related categories (except as expressly excluded in the paper presentation) will be open to internal candidates only. However, where no suitable internal candidate can be identified, external candidates will exceptionally be considered. Staff members applying for posts outside their duty station will be considered as external candidates. Specific conditions are set out in the paper. Where exceptionally an external candidate is hired with the approval of the Assistant Secretary-General for Human Resources Management (ASG/OHRM), such a candidate will be granted a temporary appointment.

37. Staff stated that they felt that staff members in the GS and related categories should be considered as internal candidates when they applied to other duty stations, provided they paid their travel and shipment expenses etc. themselves. Otherwise, the break/resignation required for external status would limit voluntary moves. Also citizenship/resident status or a work permit should not be required to be eligible unless this was required by national law. Further, UN staff members applying to agencies, funds and programmes within the same duty station should be considered to be internal candidates.
38. Management explained that priority should be given to staff at the same duty station, but that it would give consideration to accepting staff applying from other duty stations as internal candidates with distinctly different conditions of service (e.g., payment of travel and shipment costs to be covered by the candidate; no international benefits apply etc.). The JO would have to clarify these elements. Currently, there may be some agreements at specific duty stations among specialized agencies on the consideration of candidates from other entities at the same duty stations, but such measures require agreement among such entities and full alignment of selection processes among such entities, e.g., the Secretariat and participating Funds and Programmes.

39. Management agreed to consider the feedback from Staff in the implementation of these measures and, where feasible, to incorporate them.

40. *The relevant documents are attached as SMC III, Annex III/Appendix 8.*

41. *The President then closed the discussion on this item.*

VII. Secretary-General's Human Rights Screening Policy of UN Personnel

42. Staff introduced their paper on the Secretary-General's Human Rights Screening Policy of UN Personnel and requested an update on the status and scope of the Policy. Staff generally supported the Policy's objective of ensuring that persons who had violated human rights are not serving in the United Nations. However, they had some major concerns about (i) the lack of consultations with Staff prior to the Policy Committee's recommendation on the adoption of the Policy by the Secretary-General should not be seen as setting a precedent on the process for introducing new policies, (ii) possible arbitrariness in selection decisions based on the standards set by the Policy, (iii) due process rights and possible appeals by staff

members, (vi) unclear language in the question staff members were asked, (v) the means of investigating human rights violations by the Organization and (vi) the need to ensure that only staff who were found guilty of such violations and not just facing allegations would be excluded from service.

43. Management, joined by the Office of the High Commissioner of Human Rights (OHCHR) via video link as substantive experts, responded and acknowledged that the adoption process for the Policy had not been ideal in the context of Staff-Management consultations. Unfortunately, the political pressure to introduce measures to protect the Organization from potential reputational harm and the premature closure of the SMC in 2013 had not, despite the best efforts of the Department of Management, provided opportunities to consult with Staff on the matter. This unique situation was not to be understood to be precedent setting, as the Policy Committee normally does not deal with administrative issues but rather handles political matters. However, Management also noted that, although the Policy applies to all UN personnel including staff, the Policy does not impact on staff welfare or terms of appointment. The Policy is in line with the regulatory framework, as well as the already applicable UN Charter standards. Further, the concerns raised by Staff had been carefully considered when developing the Policy. OHCHR explained that the standards reflected in the Policy (“reasonable grounds for involvement, by act or omission”) stem directly from the internationally recognized standard applied by human rights bodies, and is the standard applied by the United Nations in non-judicial human rights investigations and is a well-established threshold related to the obligation to investigate under international human rights law. The process of screening or requesting staff to attest as to their involvement is not a judicial process nor meant to establish guilt in a judicial context. OHCHR further explained that the standard of “conviction” or “guilt” would be insufficient due to the lack of proper implementation of relevant conventions in some Member States, lack of accountability, weak legal systems, impunity etc. Management also referred to the previously applied standard of asking staff to disclose prior “arrests,” not only convictions. Such information is relevant to ensure an informed discretionary selection decision that recognizes the standards expected under the UN Charter and the best interests of the Organization. Due process rights follow in all cases from the applicable procedure; e.g. if a staff provided false information or new information arises, the procedures for disciplinary action /facts anterior would apply. There is no change in rights for current staff members.

44. The SMC agreed that a Contact Group of OHRM and staff representatives would be established to submit Staff views via OHRM to the inter-departmental Working Group tasked to implement the policy. There would also be the opportunity for periodic direct interactions (VTC/TelCon) between staff representatives and the inter-departmental Working Group.

45. *The relevant documents are attached as SMC III, Annex III/Appendix 9.*

46. *The President then closed the discussion on this item.*

VIII. Roster Management

47. Management introduced the paper on this item, which followed prior proposals made in 2012 and 2013. Management explained that there was a discrepancy in treatment between selected and other recommended candidates; i.e. all CRB recommended candidates were placed on rosters with the exception of the selected candidate. Even when staff on rosters was later selected, they remained on the roster but this had not been the case for the initially selected candidate. This has now been adjusted.
48. Staff referred to the Staff paper on this item, proposing that candidates selected since 2009 should also be placed on rosters indefinitely, but with the opportunity to opt out of the roster within a specified timeframe. Staff further pointed to a discrepancy following the UNAT judgment confirming the policy that job openings can be closed as soon as a rostered candidate is selected. This practice makes it more difficult for staff not already on rosters to be selected through competitive selection, or to advance far enough in the process to be placed on a roster if not selected.
49. Management understood the concerns raised and stated that the option to “opt-out” within three months could be accommodated, but this was subject to adjustments being made to the roster platform (Inspira).

50. The SMC agreed that Management would seek to accommodate an option to opt out from roster membership subject to a review of the required system adjustments. The SMC also agreed that roster management may have to be reviewed in the context of the implementation of the mobility policy.

51. *The relevant documents are attached as SMC III, Annex III/Appendixes 10 and 11.*

52. *The President then closed the discussion on this item.*

IX. Workforce Reshaping/Downsizing

53. Management introduced the topic on the basis of the paper by the SMC Working Group on workforce reshaping/downsizing/restructuring. Previously, each mission or office that was downsizing had developed and applied mission or office-specific procedures/measures. The Working Group outcome aims to provide a basis for the development of a streamlined, organization-wide approach, to be reflected in an administrative issuance. Such a policy would consolidate, *inter alia*, definitions of downsizing, abolition of posts, reduction of staff etc., options for affected staff, action to be taken in case of reclassification or new positions, the scope of such measures (i.e. staff member of Secretariat holding fixed-term, continuing or permanent appointments if appointed through regular procedures), comparative review, consultation process and termination scenarios.
54. Staff appreciated the work that had been done by the Working Group but requested that further discussions be held to clarify various measures in the case of organizational change. These included (i) means to reduce stress faced by staff, (ii) the prescribed order of retention

of staff members based on type of appointment, (iii) the consequences where consultations were felt to be insufficient, (iv) cross-departmental placement and (v) oversight measures. Staff also shared some positive experiences that they had with downsizing by management in the UN tribunals.

55. Management assured Staff that the Working Group had looked at a wide range of possible scenarios but that the subject was complex as other factors (such as the General Assembly decision that all vacant positions be advertised and be open for external applicants) limited the Secretary-General's authority. Any measures would also have to comply with the current legal framework. Further, the UN Secretariat operates with four separate budgets that provide differing degrees of predictability for workforce planning, in addition to the role of the General Assembly as the legislative body approving funds and administrative structures. To minimize the impact on staff in downsizing scenarios, Management felt that staff also have to cooperate including, for example, by applying for vacancies in order to be considered for other positions.

56. The SMC agreed that this matter would be referred back to the Working Group for the development of further details and consideration for the preparation of a draft Administrative Instruction. The Working Group is to report back to the SMC no later than the end of 2014, and possibly earlier, in a forthcoming periodic or ad hoc SMC VTC meeting.

57. *The relevant documents are attached as SMC III, Annex III/Appendix 12.*

58. *The President then closed the discussion on this item.*

X. Performance Management

59. Management introduced the paper on performance management that details adjustments to the current process. These had been subject to comprehensive consultations. The adjustments aim to make the process less cumbersome and increase fairness and efficiency which, in turn, will increase compliance. There will be a greater role for the second reporting officer and managers will be assessed against their management skills in undertaking appraisals. The appraisal form will be significantly shortened to better comply with best practices and the assessment will be based on ongoing dialogue throughout the review cycle rather than a mandatory midterm review. Other adjustments made related to the interaction between first and second reporting officers and the selection/composition of rebuttal panels. Human resources staff will be trained to assist in the appraisal process, where necessary, and the monitoring of ratings in each department or across departments will be improved.

60. Staff requested additional oversight and accountability in the process, the retention of midterm reviews and guidance on the implementation of performance improvement plans initiated by first reporting officers to prevent any manipulation of the system. Given the link between completed appraisals and other decisions (e.g. contract extensions), the completion of appraisals should also be a mandatory part of the check-out process for managers leaving

before the end of a cycle. Staff requested that the draft Administrative Instruction be shared with staff representatives.

61. Management responded that more detailed guidance/training will be provided to managers through the forthcoming HR portal. Additionally, increased monitoring will reveal outstanding appraisals in a timely manner which should reduce delays. The same applies for ongoing dialogue rather than midterm reviews: This will increase compliance and the quality of the appraisal. Given that the General Assembly is expecting a report on the matter in September 2014, further feedback from Staff, which is welcome, must be obtained well before that time.
62. Staff submitted a paper in response to the proposals by Management. Management welcomed these comments and Staff commitment to complete the consultation exercise within the envisaged timeframe. Management outlined its initial reaction by providing some comments on some specific proposals in the Staff paper.

63. The SMC agreed on the broad principles for the revision of the performance management system. A Working Group will review the draft ST/AI and discuss the concerns of Staff with a view to concluding the revision of the draft ST/AI by 20 August 2014.

64. *The relevant documents are attached as SMC III, Annex III/Appendixes 13 and 14.*

65. *The President then closed the discussion on this item.*

XI. Mobility

A) Framework

66. Management introduced the topic on the basis of the paper and the historical development of the GA resolution on the mobility proposal of the Secretary-General, including consultative process. The first job network will start on 1 January 2016. Within the parameters of the GA resolution and underlying reports (Secretary-General's reports, ACABQ report), and the timeline set by the General Assembly, Management was open to suggestions for the implementation of this policy. Family and other relevant concerns will also be considered, and there will be a standardized induction process to facilitate integration in all duty stations.
67. Staff stated that they felt the GA resolution was not precise and was subject to interpretation. Staff then expressed a number of concerns including the possible discrimination of staff members on the basis of gender, sexual orientation, race or ethnicity depending on country/duty station context if they were obliged to locate to certain duty stations. Staff then shared a statement from "UN-Globe" (*The statement is attached as SMC III, Annex III/Appendix 21*). Staff also felt that the ICSC review on the compensation package for UN staff members should be considered in the mobility discussion.
68. Management responded that they recognized there are challenges in some countries,

including on sexual orientation or spousal work permits, which would have to be addressed in the host country agreement context. However, they pointed out that revisions of current agreements could have consequences that might be detrimental to current arrangements as such revisions are subject to bilateral agreements, not to the Secretary-General's authority. In terms of staff support, in July 2014 OHRM's newly developed HR Portal will go online. It will offer a better overview on entitlements and other UN conditions of service. There is also an agreement between the UN and the World Bank to share duty station specific information that will assist staff in making informed decisions about relocations. Particular hardship constraints will be further considered by the Constraints Panel as foreseen in the mobility scheme. The ICSC review is not yet finalized, and the GA has not taken any decision on it. Management noted that this review is under the purview of the ICSC and not the Secretary-General.

69. The concerns of Staff are reflected in the Staff paper. Management responded to these concerns on the basis of a tabulated list of questions drawn up with the assistance of the President, which the SMC then discussed in more detail.

70. The SMC agreed that a non-paper titled "SMC Discussion on Career Development and Mobility," which reflects areas of discussion during the session and which will also incorporate the topics related to transitional measures addressed as per item C below will be the basis for the work of the Working Group on Mobility that will be established and it will be part of the documentation provided at the first meeting of that Working Group.

71. The SMC also agreed that progress on the implementation of the mobility scheme will be a standing item on the Agenda of future SMC sessions.

B) Mobility – non-rotational posts

72. Management introduced the topic and provided details on how the list of non-rotational posts had been drawn up. They stressed that, at this stage, the list was provisional and that, therefore, the posts categorized as non-rotational might change in the future. The methodology foreseen is that the list will be reviewed by each Job Network Board based on consultations with departments. A separate Working Group is reviewing language posts in collaboration with DGACM.

73. Staff expressed serious concerns about the list of non-rotational posts. Staff felt the list was unbalanced in term of departments and levels of positions and therefore required revisions. For transparency and in order to appear credible before the General Assembly, they felt the list should be reviewed by a board or committee that included staff representatives. It should not be reviewed by Job Network Boards that were designed to take placement decisions, not determine non-rotational posts. Staff also requested clarifications on the DGACM Working Group and enquired about the confidentiality status of the list.

74. Management replied that the list had been produced objectively on the basis of departmental feedback and that the listed posts reflected specialist functions. On the DGACM Working Group, Management clarified that there would be further discussions with staff

representatives once initial work between OHRM and DGACM (at relevant duty stations) had been completed. Management confirmed that the provisional list was confidential. Management will inform staff at some stage in the process whether their post is non-rotational or not.

75. Following further discussions on the specific posts listed, Management responded that they will review the provisional list again with senior management and see where it could be adjusted. Management will circulate the revised list in July 2014 in advance of the submission of the GA report. Staff will also be consulted on any future amendments to the list.

76. The SMC agreed that the amended non-rotational list will be circulated to SMC members in July 2014 and that any future changes or amendments to the list will be presented to the SMC.

C) Transitional Measures

77. Management referred to the agreements reached in SMC I in Arusha (2012). UNSU stated for the record that they felt that, as no agreement had been reached in Arusha, the outcome of SMC I must be qualified as Arusha disagreement.

78. Staff responded and raised concerns about some of the proposed transitional measures. Staff also suggested that job swaps and voluntary mobility should be considered to be part of the mobility policy. Management responded that they felt that job swaps and voluntary mobility were at variance with this policy but, during discussions in the proposed Working Group on mobility, they would explore ways in which Staff concerns on this issue could be addressed.

79. The SMC agreed that currently serving staff who are in the organization on 30 April 2014 will continue to be subject to the eligibility requirement for promotion up to D-1 as defined in the current ST/AI/2010/3 until 31 December 2020. In addition, staff members who have one geographical move in the Secretariat or in the UN Common System will meet the new eligibility requirement for promotion.

80. The President then closed the discussion on mobility.

XII. Disciplinary Measures and Investigations

81. Management introduced its paper on “Draft terms of reference for the Working Group on investigations and disciplinary matters,” setting out the background of the issue within SMCC/SMC since 2007. The Management Committee had requested in March 2013 that the Administrative Instruction governing investigations and disciplinary matters (ST/AI/371) be revised on an urgent basis. This was required in order to “delineate a clear legislative framework and authoritative practice guidelines for investigations, particularly regarding the application of due process.” Management summarized the proposed Terms of Reference (ToR) for the Working Group. These focused on the areas to be discussed for the revision of ST/AI/371 (including general principles, including confidentiality, presumption of

innocence, cooperation with investigations etc.), as well as the various procedures/steps to be followed from the time of an incident of possible misconduct through the investigation to the conclusion of the matter. Finally, Management set out the proposed timeline for the work of the Working Group and the issuance of the revised ST/AI/371. Management further proposed that the work on possible revisions of ST/SGB/2008/5 be undertaken upon completion of the work on ST/AI/371.

82. Staff welcomed the paper and agreed to the proposed terms of reference for this Working Group. However, Staff was concerned about investigations being conducted by lay panels and the challenges in handling cases with anonymous witnesses or where there were fears of retaliation. Management provided some preliminary responses to these concerns and it was agreed that these and other issues would be discussed by the Working Group.
83. An OIOS representative (also a member of the proposed Working Group) attended the session and made himself available for questions. Staff appreciated the presence of an OIOS representative and raised a number of questions about the OIOS manual, due process during investigations, feedback on complainants, anonymity and confidentiality etc. to which the OIOS representative provided responses, including an explanation of new procedures for dealing with the recording of subject interviews.

84. The SMC agreed on the proposed ToR for the Working Group and that areas of concern raised by Staff will be discussed further by the Working Group.

85. *The relevant documents are attached as SMC III, Annex III/Appendix 21.*

86. *The President then closed the discussion on this item.*

XIII. Whistleblower” Protection / Protection from Retaliation

87. Staff introduced their paper and emphasized the right of staff members to be protected from retaliation for reporting violations of UN rules. Staff believed the determination of protected activities by the Ethics Office should be an appealable decision. This would allow staff members to formally challenge a decision by the Ethics Office not to recognize a staff member as a whistleblower and/or not to recommend protection of the staff member. Staff believed there are delays in the review process as it involves several offices (Ethics Office, OIOS). During these delays, Staff felt that the Ethics Office should take preliminary protective measures. Staff was also of the view that there are instances where OIOS does not investigate a complaint or does not investigate a complaint properly. Staff also expressed concern about appropriate measures in cases of retaliation and lack of information about the status or outcome of the review of complaints or investigations which could, for example, be through the publication of the OIOS reports. Staff stated that the Ethics Office is tasked to protect whistleblowers but has no tool to do so and that staff are often concerned about making complaints. In addition, Staff has heard about a planned revision of the protection from retaliation policy but has not been contacted by the Ethics Office about this matter. A potential review of the policy should consider major donors’ expectations that whistleblowers in the UN should be properly protected.

88. The OIOS representative provided some clarifications on what were felt to be some inaccuracies in the paper submitted by Staff. It was pointed out that the treatment of OIOS reports is also guided by a General Assembly resolution. Reports may be made available in a redacted version to Member States upon their request and may be made public in the context of tribunal proceedings in some instances. OIOS also clarified that it only provides recommendations to the Ethics Office.
89. Management clarified that OHRM and DM are involved only where a retaliation has been established after an investigation. Proven retaliators are disciplined in accordance with the rules with each case being considered on its merits. A summary overview of cases is published in the Secretary-General's annual report to the General Assembly on disciplinary measures.
90. Representatives of the Ethics Office (via video link) responded to the issues raised by Staff. They explained that the Ethics Office is in constant contact with staff representative bodies and monitors the rapidly changing developments in national legislations, and explained that each Member State has a different position. Many claims do not meet the standard of protected activity or whistleblower activity. The Ethics Officer further provided statistics on this as well as on its work. The Ethics Office representatives stated that they are in constant contact with staff members who have submitted complaints and that Ethics Office efforts should also be seen in the context of Organizational resource constraints. The main focus should be on training and prevention so there are fewer instances of retaliation and fear that may stop staff from coming forward. In 2012, the Ethics Office requested that the Secretary-General revise the policy, and a review of the existing policy was conducted by Canadian Judge Ms. Lois Otis who made a number of recommendations. The Ethics Office consulted with relevant departments on proposals based on the recommendations provided by Judge Otis. On the question of appeals of Ethics Office determinations, the UNAT judgement will clarify the discussion. If the determination by the Ethics Office is found to be appealable, then Management, on behalf of the Secretary-General, would have oversight authority over the Ethics Office's determinations, rendering independence of that office entirely moot.
91. Management also provided answers to or clarifications on the questions raised in paragraph 34 of the Staff paper where the matter was within the Secretary-General's, rather than heads of other agencies', authority.

92. Management agreed on the importance of the recommendations of the Staff that are contained in paragraph 34 of the Staff paper and assured Staff that any draft of a revised policy on protection from retaliation will be shared with staff representatives in accordance with appropriate consultation requirements.

93. *The relevant documents are attached as SMC III, Annex III/Appendix 23.*

94. *The President then closed the discussion on this item.*

XIV. Use of UN Working Languages

95. Staff introduced this topic on the basis of the Staff paper. Staff emphasized that English and French are the two working languages of the UN Secretariat with General Assembly

resolutions 65/247 and 67/255 mandating the use of both languages. Based on a Staff-conducted review, Staff felt that job descriptions issued between 1 April 2013 to 31 March 2014, 92.3 % of job openings for positions in New York put emphasis on fluency in written and spoken English. According to Staff, this does not respect the principle of equality among the two working languages. They felt that having job openings published in French would increase their attractiveness for French speaking candidates. Jobs should only require fluency in one of the two working languages and working level knowledge in the other. Language skills and requirements may also impact mobility. Other staff representatives explained that there are jobs that function in only one specific language while others may require fluency in two languages. For some duty stations, having strict language requirements may limit the pool of suitable candidates, requiring other solutions such as the use of translators.

96. Management stated that all job openings are issued in both English and French and that the UN careers portal is bilingual (French/English). A job opening indicates the language requirements for the specific position which, in addition to requiring fluency in one working language, also identifies other language requirements depending on duty station, department and function. Language also has to be considered in the context of client expectations to ensure effective delivery of the department's mandates. The YPP exams can be taken in French or English as specific positions for candidates are not known at the exam stage. The manuals for hiring managers provide specific instructions on stating language requirements for specific positions in order for candidates to fulfil the function effectively. Management stressed that there is no discrimination on the basis of language and that these practices fully comply with the General Assembly resolutions. In addition, they pointed out that, for many staff members, working in French or English means working in a foreign language as neither of these is their first or mother language. This often results in reciprocal assistance being provided by colleagues with different language backgrounds.

97. Following further discussion on this issue, the President commented that he felt that the discussion had contributed to a better understanding of the issues by both parties and that it appeared that there are already some pragmatic approaches in place to address staff member concerns.

98. The SMC report will also be available to reflect the Staff's concerns and Management responses on this issue.

99. *The relevant documents are attached as SMC III, Annex III/Appendix 24.*

100. *The President the closed the discussion on this item.*

XV. Working Group Papers for Next Session

i. Improving Career Development for GS staff

101. Staff introduced a paper on career development for GS staff. Staff explained that the

career development of staff in the GS and related categories is limited by the UN Secretariat's regulatory framework. Staff would like an SMC resolution to draw the attention of Member States to this matter and align the Secretariat's framework with the practices of other UN Common System entities that place no restrictions on moves for staff in the GS and related categories to posts in the Professional or higher categories.

ii. Enhance investigative capacity in case of the unnatural death of a staff member

102. Staff introduced a paper on enhancing the capacity to investigate cases of the unnatural death of staff members.

iii. Widen scope of prohibition of discrimination, harassment, and sexual harassment

103. Staff introduced the proposal to discuss a widening of the scope of the current framework governing the prohibition of harassment, discrimination etc. as some categories of personnel are not covered by it (e.g., judges). The context for this Staff paper is ST/SGB/2011/6/Rev. 1.

104. Having thanked the Staff for outlining their concerns on these issues, the President explained that these and other issues that were still outstanding from this session will be included in the future work programme of the SMC subject to prioritization of these issues by the Contact Group.

105. The President then closed the discussion on this item.

XVI. SMC Yearly Programme of Work and Budget

A) Yearly Programme of Work

106. The President presented an overview of the proposed yearly programme of work for the SMC during 2014-15, with the next SMC session to be scheduled for April 2015. Periodic SMC meetings (by videoconference) will also tentatively be scheduled for September 2014, December 2014 and February 2015.

107. The programme comprised three main components. First, feedback from the various Working or Contact Groups that had been established in this 2014 session; second, issues that had been raised by Staff and Management at SMC III and on which further discussions were felt to be needed and, third, reviewing the work of all the "open" Working Groups that had been established before SMC III that had been identified in this session and to determine how they were to be progressed

B) Budget

108. The President presented the draft budget, attached to this Report.

XVII. Adoption of Report

The SMC adopted this report on 29 June 2014.¹

XVIII. Closing Statements

¹ References to or summaries of statements made by representatives of other departments (OIOS, OHCHR, Ethics Office) have not been shared with or clear by such representatives prior to adoption of this report.