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Organización
de las
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para la
Agricultura
y la
Alimentación

FINANCE COMMITTEE

Hundred and Twenty-sixth Session

Rome, 11 – 15 May 2009

Revised Policy and Implementation of FAO Use of Contractors and Retirees

EXECUTIVE SUMMARY

- i) At its 123rd Session held in Rome on 6 – 10 October 2008, the Finance Committee requested that an overview be provided of the use by the Organization of independent contractors and retirees.
- ii) This paper details the proposed HR policy changes regarding FAO's use of non-staff human resources (NSHR) which aim at ensuring that non-staff contractual instruments are effectively used for task-based and time-bound activities, while promoting greater transparency in the selection process and encouraging recruitment on the widest possible geographic basis in line with the IEE and IPA recommendations. The proposed changes also seek to ensure that the Organization's policy conforms to the wider developments in the United Nations system advocating that NSHR not be used for core activities of a continuous nature.

Action Requested

The Finance Committee is invited to consider the proposals contained within the document and to provide guidance as deemed appropriate.

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Background

1. The use of contractors or non-staff resources (NSHR) is a common practice throughout the UN common system, given the cost-effectiveness and flexibility that this type of arrangement offers for the recruitment of individuals to carry out specific tasks or services that are to be delivered within a defined period of time. UN system organizations acknowledge that these resources are not intended to carry out functions that are normally undertaken by regular staff. In January 2009, the UN General Assembly (UNGA) reaffirmed at its current 63rd session that NSHR should not be used for work more appropriately carried out by staff and expressed its concern over the increase in the use of consultants, especially in core activities, and underscored the need to draw on such resources from the widest possible geographical basis¹.
2. The employment of retirees, generally as NSHR on a short-term basis, is also a widespread practice throughout the UN common system. The use of retirees allows organizations to tap into a wealth of knowledge based on the experiences of individuals both within organizations and from outside, to further the effective delivery of their goals across a broad range of areas. Retirees are also cost-effective, as the levels of their remuneration generally fall below market rates. However, these advantages must be balanced with the need to avoid any adverse impact on proper human resources succession planning and on staff morale from the perception of promotion prospects being hindered.
3. The Independent External Evaluation (IEE) report made a number of recommendations regarding the use of non-staff human resources (NSHR), including the streamlining and simplification of rules and procedures governing the use of these contracts and calling for a substantial shift from *ex ante* to *ex post* controls. Furthermore, the Immediate Plan of Action (IPA) called for the introduction of transparency and competitive policies for recruitment of consultants, with measures to ensure attention to geographical and gender balance.

Proposed changes regarding non-staff Human Resources (NSHR)

4. FAO uses three main categories of non-staff human resources NSHR: consultants, subscribers to Personal Services Agreements (PSAs) and holders of service contracts employed as National Project Personnel (NPPs).
5. A target of a 60:40 ratio of staff to non-staff was envisaged² so as to allow for a greater flexibility in delivering the Organization's programme of work in times of substantial budgetary constraints. As at 31 December 2008, the Organization had 1781 NSHR contract holders (excluding casual labourers), representing 34% of the workforce (i.e. the total of staff and non-staff). In terms of geographic distribution, 60% of the holders of non-staff contracts came from 10 countries³, and at Headquarters, all of the top 9 nationalities of non-staff were from OECD countries⁴. In terms of gender, 45% of the total NSHR contracts were issued to women.
6. The Organization's current rules allow for the recruitment of consultants and PSAs for a maximum of 11 months in any 12-month period. After four successive contracts of 11 months

¹ A/RES/63/250, Section XI – the UNGA stressed that the use of consultants should be governed by the relevant UNGA resolutions, in particular Resolution 53/221, section VIII

² C 2005/3 Sup.1 Add.1, para 84

³ The top 10 NSHR nationalities at 31 December 2008 were: Italy 264; Sudan 134; Pakistan 114; US 106; France 100; Kenya 95; UK 93; Egypt 83; Chile 62; DR Congo 57. The high numbers in developing countries are accounted for by taking into account the NPPs employed on major programmes there.

⁴ top 9 Headquarters-based NSHR nationalities at 31 December 2008: UK 39; Italy 38; France 29; US 19; Belgium 13; Australia 13; Germany 12; Netherlands 10; Canada 9.

(i.e. 44 months in a 48-month period), individuals holding consultancy or PSA contracts are obliged to take a mandatory 6-month break before any new contract can be issued.

7. Concerns have been raised both within the Organization and the UN system regarding the general terms and conditions under which NSHR are employed particularly when used for extended periods. Such concerns were equally expressed by the External Auditors following a review of emergency operations⁵, noting that a significant number of PSAs (over 22%) were used to cover work that was typically to be carried out by staff and observing in this regard “that there are repeated engagements of the same individuals over long periods through extensions or re-employment...”.

8. The lower cost of NSHR, together with the flexibility that such human resources offer, have contributed to the extensive and prolonged use of non-staff contractual instruments. The average yearly cost of an NSHR at Headquarters in 2008 was approximately USD 58,300⁶, and since NSHR are generally employed to carry out professional level work, this represents a far more economical alternative to creating a professional post (by more than 50%) to meet programme delivery requirements. The budgetary constraints of previous biennia have increased the Organization’s reliance on non-staff human resources to deliver essential ongoing programme activities.

9. NSHR are often the most appropriate resource to deliver specific specialized services over a short period of time and to undertake time-bound and task-based duties, which fall outside of core activities that are of a continuous nature. Consequently, NSHR should be a “high turnover” resource. Where the task to be undertaken is of a continuous nature and more synonymous with core activities, temporary or fixed-term posts should be established considering the principles of equity and ‘equal pay for equal work’ since NSHR do not receive the same package of benefits and entitlements as staff members.

10. The existing NSHR contractual instruments are considered adequate to meet the requirements for which they are designed. This is confirmed by the fact that the same contractual instruments are used by all other common system organizations without any substantive difficulties.

11. With a view to addressing the recommendations emanating from the IEE and the IPA, several measures could be foreseen: (i) promoting more effective communication through the issuance of guidelines clarifying the functions for which NSHR should be used and explaining when a short-term post is more appropriate; (ii) having departments/divisions undertake wider dissemination of NSHR assignments (including advertisement whenever feasible) to redress the issue of distorted geographic distribution among NSHR; (iii) requiring departments to provide *ex post* report on their efforts in this respect – the iRoster to be launched in 2010 will allow a large number of skilled NSHR from various locations to be registered with FAO thus creating a wide geographic pool from which NSHR may be selected and contributing to the improvement of gender balance; (iv) allowing for retention by divisions of the selection and hiring process of NSHR, while ensuring transparency through a documented “self-certification” record of having carried out a transparent selection process; and (v) establishing a reinvigorated oversight mechanism on the appropriate use of NSHR and on the application of the four-year duration limits on such assignments.

⁵ C 2009/5B. Paragraph 293 of the report of the External Auditors on TCE activities refers. The report contains an analysis of 394 PSA contracts issued during the 2006-07 biennium, which revealed that 84 (over 22%) were found to cover work that was typically to be carried out on a staff basis. With regard to waivers for non-staff contracts, out of the 689 contracts finalised during the biennium 2006-2007, waivers had to be sought in 142 cases (20.61 per cent), including 33 waivers relating to change in the nature of contract and 22 waivers from the mandatory break period.

⁶ The average yearly costs in 2008 at Headquarters of a consultant was USD 77,187 and a PSA USD 50,481 (this is calculated by the sum of the total honoraria paid divided by the number of person years)

Proposed changes regarding Retirees

12. With regard to the use of retirees, the IEE report advocated that the Organization adopt more liberal conditions and simpler procedures for the remuneration of UN pensioners and other retirees at market-based rates. It recommended that the existing limits on duration of assignments (i.e. 6 months in every 12-month period) be retained for former FAO and other UN common system staff. In addition, the IEE further advocated for a strictly enforced limit, with no exceptions, of 6 months between retirement and re-employment of former staff members (i.e. presently 3 months), so as to enable more effective succession planning whilst redressing the perceived overly extensive use of retirees. As for retirees from outside the UN system, the IEE recommended that they be recruited at market rates.
13. The IPA called for a rationalisation of the use of FAO retirees, underscoring that they should not be rehired for at least six months after their retirement from the Organization. The IPA further stipulated that consultants, including FAO retirees, should not be used as a cost-saving measure for the long-term gap filling of vacant posts. Yet, the use of retirees has demonstrably allowed the Organization to make substantial savings at a time when the emphasis of the Governing Bodies seeks economies in all areas of FAO's work.
14. At 31 December 2008, FAO employed 139 retirees, which made up less than 8% of the total of NSHR (1781), and less than 3% of the total workforce of staff and NSHR (5258).
15. In order to give effect to the IEE and IPA recommendations, it is proposed to simplify the procedures regarding the employment of retirees by FAO by streamlining the current three categories of retirees into one category only *viz.* UN pensioners i.e. former FAO/UN Common system staff members over 55 years in receipt of or eligible to receive a pension from the United Nations Joint Staff Pension Fund (UNJSPF).
16. UN pensioners should not be employed for the first six months following the date of retirement. Furthermore, they should not be recruited to perform the functions of the post from which they retired, nor act in an executive capacity that commits the Organization. Moreover, the duration of assignment of UN pensioners would continue to be limited to 6 months in any 12-month period.
17. All other individuals over 62 and not in receipt of or eligible to receive a UNJSPF pension should be recruited under normal conditions governed by the standard rules regarding remuneration and duration of assignment as those applicable to all consultants and subscribers to PSAs. Recruitment of such individuals shall be subject to requisite medical clearance and recorded in *post factum* reports to senior management.

Conclusion

18. The existing NSHR contractual instruments are sufficient to meet the requirements for which they are designed, confirmed by the fact that the same contractual instruments are used by all other common system organizations without any substantive difficulties.
19. It is intended that the measures proposed above will ensure that the NSHR contractual instruments are being correctly applied for the purposes for which they are intended. They will also enable the Organization to converge towards wider developments across the UN for organizations of the common system to pursue a harmonized approach in the use of NSHR in line with the recommendations of the UN General Assembly as reflected in UNGA Resolution 63/250, adopted on 24 December 2008.
20. In considering these proposals, the Committee may wish to decide to endorse:
- the measures presented in paragraph 11 on the use of non-staff human resources;

- the suggested streamlining and policy measures outlined in paragraphs 15-17 to govern the use of retirees in the future, which give effect to the IPA recommendations in this regard.