

INTRODUCTION TO THE FIFTH COMMITTEE OF THE UNGA OF THE JIU REPORT ON THE REVIEW FOR THE MEDICAL SERVICE IN THE UNITED NATIONS SYSTEM.

Inspector Gérard Biraud

Joint Inspection Unit of the United Nations system

Mr. Chairman, distinguished delegates,

The objective of the review, which was presented in accordance with the proposal from the Office of Human Resources Management – Medical Service Division (MSD) and the Office of Internal Oversight Services (OIOS), was to propose some improvements that would enable the United Nations to fulfill its duty of care with regard to the health and safety of staff.

As stated by a former Secretary-General of the United Nations, “...staff are this Organization’s greatest asset. We must treat them as such.” This is of particular importance when considered in the context of the United Nations strategic movement towards mobility and increased field presence, and of particular relevance to staff deployed at hardship duty stations. This will require a paradigm shift in the provision of medical services towards the emphasis to be placed on prevention rather than cure.

The proposal submitted by the United Nations Medical Directors Working Group (UNMDWG) for adoption of an Occupational Safety and Health (OSH) policy was endorsed by the High-Level Committee on Management (HLCM) of the Chief Executive Board for Coordination (CEB). It is high time to consider how this idea would be implemented into practice and what kind of a system-wide mechanism to monitor and manage OSH would be established.

In order to obtain the relevant information the team conducted interviews in person and by tele/videoconference, distributed a detailed questionnaire, visited a number of United Nations medical facilities, met not only medical service staff but officials of human resources and finance departments within the United Nations system organization and in various duty stations. The team also visited Department of Peacekeeping Operations (DPKO) medical facilities in Lebanon and Liberia.

United Nations staff are increasingly deployed to field duty stations, including to many areas with sub-optimal medical and health-care infrastructure. It is a fact that HQ staff benefit from access to world-class local medical services, while field staff are often at risk, in an environment where health-care infrastructure, including that of the United Nations, is inadequate. As a matter of urgency, the management and accountability framework for supporting United Nations clinics and dispensaries in the field should be clarified and promulgated in a defined Terms of Reference (TOR), taking into account the inter-agency common services that they are required to deliver.

The Department of Field Support (DFS) faces the challenges in making its medical accessible to other United Nations entities in the field. DFS would require adequate resources for the entire United Nations

field presence. The inherent advantages would include harmonization of the definition of medical capabilities and of resources available in the field, joint utilization of resources for efficiency and savings, as well as transferability of resources from one organization to other.

The issue of accountability in the field medical services is vital; for although MSD is supposed to be the “technical supervisor”, it actually has no input with regard to the budgets and work plans of field units, nor in the performance management process of the other service providers. Due attention should be given to the improvement of the overall coordination of system-wide medical services.

In general, resources at HQ duty stations are sufficient for providing adequate medical services. Nevertheless, in view of a number of the UN system organizations, there were insufficient resources to, for example: hire additional medical service staff, including staff counselors, to improve service delivery; deliver training to medical service personnel; support health promotion programmes at HQ and field locations; introduce a database and perform statistical analysis of work; respond to emergency situation in the context of a national pandemic, etc.

One key feature of OSH, and in particular of OSH medical services, is that such services should remain independent from other administrative/organizational units, and report either directly to the CEO or to his/her appointed representative, within the office of CEO. Of course, OSH medical services should continue working in close collaboration with human resources.

A successful OSH policy would also lead to cost-efficiencies. The concrete example you can see in para.25 with regard to the Organization for the Prohibition of Chemical Weapons’ practice. As well as monetary savings, this approach also saves significant staff time, reduces sick leave and disability rates.

The United Nations has invested considerable resources in employing a large number of health-care personnel across the system, but has not yet created the structures required to oversee and manage these resources according to modern-health-care standards.

The proposed new coordinating body, namely a **system-wide network for OSH issues** modeled of the Inter-agency Security Management Network, would monitor the implementation of United Nations OSH policies, practices and procedures, and thereby support the High-Level Committee on Management and of the CEB in its comprehensive review of issues pertaining to the entire United Nations occupational safety and health structure.

PRESENTATION TO THE FIFTH COMMITTEE OF THE UNGA OF THE JIU REPORT “STAFF
MANAGEMENT RELATIONS WITHIN THE UNITED NATIONS”

Inspector Gérard Biraud

Joint Inspection Unit of the United Nations system

Mr. Chairman, Distinguished delegates,

The JIU decided to undertake as part of its Programme of Work for 2009 a report on the Staff Management Relations in the United Nations system, on the basis of written suggestions made by the then USG for Management and the HR network, as well as wishes expressed by staff representatives in Geneva and New York. The unique role of the Unit as the only external and independent system-wide body for evaluations, inspections and investigations was a reasonable solution to avoid any conflict of interest for the Secretary General in this sensitive area. It was a major challenge in various respects:

- a) To analyze relations between two groups, entails dealing with subjective perceptions, based both on facts and often opinions and notions that may be held either consciously or subconsciously.
- b) The topic of SMR is neither neutral nor technical, not one exclusively limited to Human Resources Management: it deals with all HR policies, procedures and practices, that affect – be it positively or negatively, all individuals serving the United Nations: be it their personal situation, family conditions or even their safety and security. It subsequently cuts across sensitive political and personal realms.
- c) For this report, the JIU had to understand the HR environment and does not go into details on specific substantive except for illustrative purposes.
- d) The report has a considerable focus on the aspect of power: how to assess and improve the way it is organized and shared on SMR related issues, among persons and groups with sometimes conflicting interests, yet ones who are usually willing to serve their organization or entity to the best of their abilities.
- e) Another challenge is the striking diversity in relations between and within entities and duty stations, with staff being scattered in the main duty stations of the UN Secretariat as well as in various Peace Keeping Operations, International Criminal Tribunals, entities, Funds and Programme. This is a fragmentation that results from the historic development of the Organization and varying levels of interpretation of the concept of Freedom of Association by both Staff and Management. It is aggravated on the staff side by the lack of organization to federate within the U.N. secretariat and “group” the various Staff Representative Bodies (SRBs) and represent them. On the management side, the situation is affected by the contrasting conditions in the traditional duty stations and the field operations and the difficulty to answer clearly the question of who is accountable to whom. As a result, the Department of Management (DM) has rightly undertaken an inventory that should bring some clarity to the issue of unclear and multiple delegations of authority in the entities under the purview of this report.

Given the complexity of the issue, the JIU decided to split the project – originally envisaged as a system-wide review, into two successive reports: the current one dealing exclusively with the United Nations Group as outlined in the introduction and under discussion here today under the HRM agenda item, and

a following report to be discussed next year on specialized agencies and the common system, which is currently being finalized and will be posted on the JIU website shortly (www.unjiu.org), to be supplemented by documents with specifics on SMR in each specialized agency. This split is clearly explained in the first paragraph of the executive summary and introduction of the present report. It is therefore difficult to understand why the CEB comments on this first report, under A/67/136 Addendum I refer to the United Nations System (in the summary and paras 6, 11, 13 and 15) and even the specialized agencies (in para 6) and the staff federations (in paras 10 and 11). These entities are addressed within the scope of the second second volume and thus irrelevant in the context of the present report which is to SMC participants – a Committee in which the Staff federations have not been invited to participate. In addition, to avoid creating a precedent with such an addendum, I should recall that the JIU Statute, art. 11 d) does not foresee any comments – neither by the CEB nor its secretariat – with regards to projects focusing on only one organization, which in the case of the present report, limits itself to the United Nations only. That is why the collective comments of management and the staff representative bodies were first sent to DM to prepare a synthesis.

The research team hoped to find more good practices in replies to its questionnaires. It found quite different levels of SMR quality among the Staff - Management partners and demonstrated with the case of UNICEF that excellent SMR is possible and viable under the same UN Staff Regulations and Rules (SRRs) where a climate of trust among partners is institutionally established, based on transparency, good faith and full mutual recognition and genuine respect.

The present report bases itself (in Chapter VI) on: a) the fundamental texts of the UN General Assembly on SMR that are regularly revisited and referred to throughout the report; and b) the interpretation of such texts by the main actors in the social dialog, as can be found from an analysis of 30+ years of reports of the Staff-Management Coordination Committee (SMCC), replaced in 2012 by the Staff Management Committee (SMC). As analyzed in chapter III, the Committee brings together a similar number of management and staff representatives from nine duty stations of the Secretariat and associate members representing “staff directly affected by the Staff-Management Committee agreements.” The Secretary-General, honoring the commitment made at the times of the 32nd session of the SMCC, promulgated on September 9 2011, the new TOR of the Committee via ST/SGB/2011/6, a text that had already been agreed to by the present partners since 2008. In early November 2011, the Secretary-General, in another appreciated move, received for the first time, the elected representatives of the Secretariat staff. I may have possibly assessed SMR in the UN more positively had the timeframe of the report been extended to cover events that occurred since the finalization of the report. I leave it to the entities concerned to assess for themselves the extent of any improvements that may have occurred since its publication. The recent announcement by the Chef de Cabinet to invite staff representatives to participate in discussions certainly goes into the right direction to appease SMR.

Finalized in early December 2011, this report covers the period 2009-11 and outlines in chapter II the open crisis in SMR in May-June 2011 which threatened to jeopardize the continuing existence of the SMCC - whose work had already been interrupted once previously between 2003-5. The new crisis followed decades marked by both substantive accomplishments and agreements as well as chronic weaknesses, in particular with regards to the implementation of agreements. An in-depth study of 30 years of reports on SMCC performance led me to suggest in chapter VIII, in accordance with article 5.5 of the JIU Statute, the principles and features of possible reform. These suggestions should have been deliberated upon during the last Committee session in June 2012 and can still be discussed and decided upon by all SMC members in the future, as the Committee is entitled to establish its own procedures.

These suggestions are probably what addendum 1 describes as “surprisingly detailed recommendations” as they were presented not as formal boxed and numbered recommendations but informally, as narratives conceived primarily for the planned discussion by the SMC members. They present another modus operandi for the Committee, giving months rather than days to the partners to (mutually) announce, inform, consult and negotiate on any new initiative, proposal or concept, in a timely matter to arrive at agreements reached through working groups, thus combining two of the best practices noted in the report.

However, following the promulgation of its new TOR, the theme of SMC reform was apparently deemed not as urgent when the Committee met in June 2012. The session report notes in para.182 that “Staff appreciated the value of the (JIU) report and welcomed its conclusions and recommendations” and, in para.183 that “Management welcomed the report of JIU. Noting that the report covered not only the Secretariat but also funds and programmes, management was of the view that issues seemed to be more complex in terms of what the Secretariat could address internally”. The latter sentence is one that I am still trying to understand given that what is discussed within the SMC is by definition within the prerogatives of the Secretary-General as Chief Administrative Officer. Art. 1.3 of the SMC’s new TOR clearly states that “The Staff-Management Committee shall agree by consensus on those issues within the authority of the Secretary-General. For matters outside the authority of the Secretary-General, the Committee shall agree on a position to be presented to the General Assembly.” Unfortunately, Management did not disclose its substantive views “given that the report would be submitted to the General Assembly and included recommendations addressed to the General Assembly”. My personal feeling is that the Fifth Committee might have appreciated knowing whether or not a joint common position could have been arrived at in the SMC on the six formal recommendations made in this report.

Chapter IV outlines common/typical features of Staff Representative Bodies (SRBs) and the Joint (staff-management) Bodies (JBs), as actors and the framework of the social dialog at the local level. This chapter had been severely criticized by a number of staff representatives for containing, in addition to recommendations to the management, some recommendations to the SRBs, thus going beyond the role they expected from the JIU; a few SRBs even termed it as an attempt to infringe upon their Freedom of Association. The report made it clear, including in para 8 of the introduction, that any change as regards to the internal governance of SRBs should result only from their own undertaking

As emphasized in chapter VII on “accountability for all”, both sides need to demonstrate real openness, starting with the willingness to understand each others’ interests and arguments, whether economic, legal, ethical or linked with technological or budgetary constraints. Such an effort towards mutual transparency and understanding is time consuming but is vital in that it is premised on good faith - a critical element in any consultation or negotiation. From both sides it requires sharing respective visions of short, medium and long term stakes and the acceptance (sometimes on a provisional basis) of some compromises to better serve, through necessary changes, the best interests of the Organization or entity. The Rules for constructive negotiations as outlined in table 4 are derived from and applicable to all discussions and valid for all stakeholders concerned, including the Member States.

As a result, the recommendations proposed to the Secretary-General and the other executive heads reconfirm and generalize previous provisions, to ensure that no exception are accepted in their implementation by the United Nations Departments and entities:

- Recommendation 1 aims at informing Member States on the state of SMR through the receipt of SMC reports which are currently shared with the staff-at-large and management by their

respective representatives; if sharing these reports requires a positive signal from your Assembly, it is up to you to reflect it in the draft resolution;

- Recommendation 2 endeavors to ensure the right to freedom of communication to any SRB. In making the case for this recommendation, the supporting text highlights the importance for staff representatives to use prudence and good judgment so as not to tarnish the public image of their organization.
- Recommendation 3 refers to existing administrative instructions dealing with facilities and reasonable time released to allow staff representatives to perform their official functions;
- Recommendation 4 addresses necessary SMR related training for staff representatives and managers, particularly newly appointed line managers, with the aim of integrating SMR into HR culture. No additional resources are requested from the General Assembly here but different allotment priorities; So far, the JIU is not aware of any systematic training on SMR related matter being delivered in any entity; and finally
- Recommendation 6 invites all Executive Heads and senior managers to ensure a culture of an open door policy, including easy and regular access to them by the staff representatives. The critical importance of this aspect features prominently in the forthcoming report on SMR in the specialized agencies.

The positive comments in Addendum 1 on recommendations 2, 3, 4 and 6 are appreciated.

Before looking at recommendation 5, I would like to draw attention to the concept of “negotiations” which is substantively different from “consultations”. Clearly, as acknowledged in para 67 of the present report, some Joint Bodies are and should remain purely advisory or consultative by nature. Moreover, any negotiation should include an important stage of mutual consultation. Nonetheless, the term “negotiations” appears in various parts of the present report, as justified in paras 64 to 68. The reluctance of a number of managers to acknowledge this concept is understandable given that they perceive it as a threat to their authority, as illustrated in para.7 of addendum 1, which appears to implicate negotiations as being incompatible with the authority granted to the Secretary General’s as per art 97 of the UN Charter. It should be noted that the JIU’s “reasoning” on negotiations is derived from Staff Regulation 8.1 – adopted by the General Assembly itself – as well as from a detailed study of 31 years of SMCC reports. Legally, no doubt should remain on the establishment of negotiations as a central concept of social dialog in the United Nations, given the promulgation of the TOR of the Staff Management Committee (the central joint body for SMR) via ST/SGB/2011/6, where the word “negotiation” appears six times in paras 1.1, 1.4, 2.,3.4, 3.7 and 3.8.

Many agreements have been reached in the past through negotiations going as far back as 1983 and the 2011 TOR only serves as a clear confirmation of the existence of this feature. The report of the 29th SMCC session in June 2008, clearly shows that it is the management which tabled a proposal, outlining its agreement with the concept of negotiation as a mechanism to reach consensus during SMCC deliberations. It was on the basis of this that the Plenary adopted a draft Framework Agreement, then a draft SGB, which was successively submitted to it by a joint working group. All members of the SMCC finally approved the text of the ST/SGB. The promulgation by the Secretary General of a text agreed to by both sides, should be appreciated and celebrated by all concerned.

It appears clearly that what was done by the SMCC and now by the SMC corresponds to what the ILO’s instruments call “collective bargaining”: the activity or process leading up to the conclusion of a collective agreement. Collective agreements are themselves defined as: “*all agreements in writing regarding*

working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more representative workers' organizations, or, in the absence of such organizations, the representatives of the workers duly elected and authorized by them in accordance with national laws and regulations, on the other." Recommendation 5 of the report, the only recommendation addressed directly to the General Assembly, invites it to confirm its former position of principle, adopted via resolution 128 (II) called Trade union rights (Freedom of association), where it solemnly declared that it *"endorses the principle proclaimed by the International Labour Conference (ILC) in respect of trade union rights"* as well as the basic principles embedded in the Declaration of Philadelphia and decided to place them in an annex under the title *"Principle set forth under section II (a) and III (a) to(j) of the Declaration of Philadelphia"*. While section II (a) of the Annex addresses "all human beings" without any discrimination, para (e) of section III of the same Annex clearly outlines "the effective recognition of the right of collective bargaining..."

Not only has the United Nations implemented de facto the concept of collective agreements in its SMR machinery, but it also promotes its application in the private sector, by placing it among the ten principles of its United Nations Global Compact with Principle 3 clearly stating that *"Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining"*. In 1978, the ILC applied this concept to the public service through adopting C151 Labour Relations (Public Service) Convention, which has been ratified by the majority of UN Member States. It is the most easily adaptable text to the context of an international organization, and it also envisages how to overcome difficulties in order for the respective parties to reach an agreement. It is available for download on the JIU website as one of the supplementary documents to the present report. The question remains as to how can the United Nations apply what it has conceptually endorsed and is preaching externally?

The only missing link is a text by which the General Assembly, through a new Staff Regulation, would confirm the recognition of the right of the United Nations staff to collective bargaining and request the Secretary-General and the Executive Heads of the separately administered organs and programmes of the Organization to apply it in their respective entities. Obviously, as the ILO texts are addressed to national authorities, such an application would require some transposition, to be made *"mutatis mutandis"*. The application should be within the scope defined by Staff Regulation 8.1, the SMC TOR, and only for decisions that are under the sole authority of the Secretary General. The Declaration on Fundamental Principles and Rights at Work (1998) which automatically applies to all three groups constituting the ILO supports recommendation 5 as it outlines among its four key tenets the *"freedom of association and effective recognition of the right to collective bargaining"*.

In closing, I would like to reiterate that the main objective our report has always been to help improve SMRs, with the adoption of the appropriate legal processes serving only as a tool to such an end. Allowing greater participation of workers in decision making means they are part of the solution, solutions are better tailored to the problems facing staff, and most importantly they are more likely to accept the outcomes.

I thank you for your attention and patience.

INTRODUCTION TO THE FIFTH COMMITTEE OF THE UNGA OF THE JIU REPORT ON THE MANAGEMENT OF SICK LEAVE IN THE UNITED NATIONS SYSTEM.

Inspector Gérard Biraud

Joint Inspection Unit of the United Nations system

Mr. Chairman, distinguished delegates,

This system-wide report reviews the manner in which international organizations record, manage and report sick leave and proposes improvements that will enable United Nations system organizations to clarify, improve and harmonize system-wide, the rules and regulations pertaining to sick leave, prevent abuse and more importantly, fulfill their duty of care with regard to the health and safety of staff.

With the 2009 decision of Chief Executives Board (CEB) to adopt an Occupational Safety and Health (OSH) policy for their respective organizations, and the corresponding paradigm shift where emphasis is placed on prevention rather than the cure, the duly created occupational health service will be required to focus on the medical aspects relating to sick leave, including the compilation and analysis of relevant statistics. Sick leave should not be managed by the medical service, as confirmed by the Office of Internal Oversight Services (OIOS) through two recommendations addressed to the Office of Human Resources Management (OHRM) and not yet implemented to date. The report does not suggest to create another medical service, rather to assign a medical professional from the medical service to human resources (even on a part-time basis), to monitor and approve (where applicable) sick leave requests. This is essential to ensure that there is no conflict of interest and the confidentiality of staff member medical records is maintained as non-medical human resources staff cannot review staff member medical records.

While the report confirms that staff, on average, do not take as much sick leave as their counterparts in the public service of national governments, the fact that only 10 out of 34 organizations surveyed were able to provide some statistics on sick leave leads one to believe that the full extent of sick leave and its cost is not fully known. Among those that maintain such information, they are not comparable due to different methodologies used, and many do not include indirect costs (i.e., overtime, temporary staffing, disability, workers compensation) in their calculation of sick leave cost. Some organizations also confirmed that sick leave data is not recorded for all staff members: one records data for its international staff, but not for the remaining 80 per cent of its staff; while others do not include sick leave taken by temporary staff, consultants and independent contractors in their statistics.

A pro-active policy would enable United Nations system organizations to exercise a duty of care towards its staff. Furthermore, one study estimated that a one per cent increase in absenteeism is equivalent to a one per cent increase in salary costs. This underscores the need to enforce, through proper management (the main focus of the report), the existing rules and regulations on sick leave (especially uncertified sick leave).

The Inspectors therefore requested executive heads to provide legislative bodies with comprehensive annual or biennial reports on sick leave, incorporating statistical and financial data as well as measures taken by the organization to reduce sick leave absenteeism. Upon receipt of such reports, the legislative bodies will take any action deemed appropriate. To ensure data consistency, the Inspectors recommended that the United Nations Medical Directors Working Group establish a set of common information requirements to be included in sick leave certificates and reports.

In 2006, the United Nations systems organizations agreed to adopt and comply with the International Public Sector Accounting Standards (IPSAS), more specifically IPSAS 25, which deals with

employee benefits. As such, paid sick leave is assigned a financial value. However, the United Nations Task Force on Accounting Standards has not yet agreed on a policy guidance for sick leave.

The report recommends that managers and supervisors be formally trained on how to respond to the needs of staff members who have medical issues (including mental health issues) that may impact their performance and lead to significant absences, and sometimes require adjustments to work schedules. As such, executive heads are requested to design and implement a return to work policy for those staff members who were on extended sick leave absence.

The report concludes that maintaining a healthy working environment is sine qua non for reducing absenteeism (sick leave). Thus organizations and entities are requested to consider incorporating health and productivity management modules into the workplace. These include the establishment of health promotion, including health management and wellness programmes; disease management, which includes screening and care/case management programmes and employee-assistance programmes to address substance abuse or work-related emotional problems. The above initiatives reflect the paradigm shift in health care with the emphasis placed on improving work performance.

The JIU wishes to thank the CEB for having compiled the organizational comments on the report recommendations. However, we would like to clarify that the draft report is circulated to all participating organizations requesting the latter to provide comments within a four week period, and specifically to point out any factual errors and thus we are surprised that some agencies noted some factual errors in the report, notwithstanding the fact that opportunities were provided to correct such errors at the report drafting stage.

Thank you.