



NOTE ON THE RIGHT TO STAFF REPRESENTATION IN ORGANISATIONS OF THE UNITED NATIONS FAMILY¹

The Standards of Conduct for the International Civil Service recognize that UN Officials should have the right to be represented whenever decisions affecting their conditions of work and employment are being considered.

This principle is in fact not implemented at the level of the UN Common system of salaries, allowances and other conditions of service, as well as by or within many individual Organizations.

Staff Associations and Unions in the UN Common System consider that no substantive and lasting progress in conditions of work and employment will be achieved, if the fundamental right of staff to be part through representatives of their choice to discussions with those empowered to make decisions on substantive aspects of their collective working and employment conditions is not acknowledged by the organizations part to the UN family.

To this end, Staff Associations and Unions request that meaningful social dialogue conducted through freely chosen staff representatives on all aspects of their employment and working conditions be recognized by the UN General Assembly as one of the broad principles, along with what is said in article 101.3 of the Charter of the United Nations², for “the determination of the conditions of service of the staff³”.

Staff Associations and Union further request that the following method⁴ be established, for applying the principle of deciding on employment and working conditions after conducting meaningful social dialogue with freely chosen staff representatives:

- Staff rules and regulations should make explicit reference to the right of staff to enjoy freedom of association, and to freely chose their representatives at all duty stations and for all types of contract;
- Staff rules and regulations should make explicit reference to the facilities, including adequate release from duties, to be recognized to staff associations/unions and to staff representatives;
- Staff rules and regulations should make explicit reference to social dialogue with staff representatives as the privileged means of action for consideration of conditions and employment and work, as well as in all matters of staff welfare;
- Staff rules and regulations should specify the areas of conditions of employment and work to which social dialogue should apply, and detail the provisions to give effect to this provision. As a minimum, social dialogue should apply to the following areas: general terms and conditions of employment; recruitment and selection processes; occupational health and safety and staff security; staff training; grading mechanisms; performance evaluation; staff welfare facilities;

¹ An amended version of this Note was adopted as a resolution by the CCISUA General Assembly meeting in NY in July 2005.

² “The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.”

³ Statute of the International Civil Service Commission - ICSC , art.10 a).

⁴ Statute of the International Civil Service Commission – ICSC, art.11 a).

grievance mechanisms and prevention of labour conflicts; social security provisions;

- **Staff rules and regulations should make explicit reference to the right of staff representatives to make proposals for the improvement of the situation of officials, both as regards their conditions of employment and their general living conditions, and to address on a regular basis the governing bodies of respective organizations;**
- **Staff rules and regulations should establish that Executive heads should consult with staff representatives before putting into effect in the respective Organizations policies, procedures and practices related to common system terms and conditions of employment;**
- **Staff rules and regulations should establish that staff representatives shall not be discriminated against or victimized for exercising their rights and duties as staff representatives nor any staff member on the account of his/her membership in a staff Association or Union;**
- **Staff rules and regulations should acknowledge the right of staff representatives to undergo training in social dialogue techniques, and that of staff associations and unions to join international federations if they so wish;**
- **Staff rules and regulations should recognize the right of staff representatives to call for industrial action in case of failure to achieve agreement through social dialogue on conditions of employment and working conditions, and identify means to address and solve collective disputes over employment and working conditions.**

Staff Associations and Unions might therefore decide:

- **that the contents of this Note be shared with all staff of all organizations at all duty stations, in order to elicit their commitment to its contents to be amended in view of observations and comments made by staff;**
- **that the contents of the Note once finalized be communicated to all Executive heads and to HLCM with a view to gain their support to the proposals therein;**
- **to jointly request the ICSC to put on the Agenda of its next regular Session ⁵ the question of the right to Staff representation, and to table this Note for discussion at the said session;**
- **to promote the widest possible staff mobilization in favour of the adoption of the concepts and demands contained in the Note on the Right to Staff Representation in Organizations of the United Nations Family.**

ILO Staff Union, January 2004.

⁵ *ICSC Rules of procedure – Rule 2.* The provisional agenda for each regular session shall include all items required by these rules or proposed, not later than six weeks before the commencement of the session, by: (...) (f) The Federation of International Civil Servants' Associations;(g) The Co-ordinating Committee of Independent Staff Unions and Associations of the United Nations System;(h) The staff representatives of any participating organization (...).

Ensuring the respect of the right to staff representation:

What does it mean?

Standards of Conduct for the International Civil Service:

Staff management relations

26. Relations between management and staff should be guided by mutual respect. Elected staff representatives have a cardinal role to play in the consideration of conditions of employment and work, as well as in all 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.

ILO Staff Regulations

Chapter X – Staff relations and administrative bodies

Article 10.1 Staff relations

- (a) The interests of the staff shall be represented in the Office by the Staff Union of the International Labour Office
- (b) The Staff Union shall be entitled to make proposals for the improvement of the situation of officials, both as regards their conditions of employment and their general living conditions
- (c) Conditions of employment, including the general living conditions, of officials may be jointly determined by the Director-General and his or her designated representative(s) and the Staff Union through social dialogue, information, consultation and collective bargaining. The Director-General shall have the authority to bargain collectively with the Staff Union, with a view to the conclusion of collective agreements. Collective agreements so concluded shall be attached to these Regulations. (...)

Recognition and procedural agreement between the ILO and the ILO Staff Union -

“**Whereas** the Office and the Union recognize that, so far as it has the authority to do so, the Office, as an employer, should promote the principles and rights embodied in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Labour Relations (Public Service) Convention, 1978 (No. 151) and Article 20 of the Universal Declaration of Human Rights; **Whereas** it is the intention of the Office and the Union to work in a spirit of partnership, in good faith and mutual respect;

Whereas this requires the development of a social dialogue between the Office and the Union, through the sharing of information, the development of consultation mechanisms as well as collective bargaining, to enable all staff members to influence the evolution of the Organization;

Whereas the Office and the Union recognize that effective social dialogue is best realized through a representative Union, and that all staff members should be made aware of this shared philosophy; (...)

Article 2 Recognition

1. Collective bargaining within the Office is defined as negotiations in good faith with the objective of reaching collective agreement between the Parties on: (a) so far as the Office has the authority to do so, policies, procedures and practices to give effect, in the Office, to common system terms and conditions of employment; (b) common system terms and conditions of employment that the Parties agree they will jointly endeavour to change through the established mechanisms; (c) policies, procedures and practices on terms and conditions of employment in the Office which are not covered by the common system; (d) issues affecting a group of staff members arising from day-to-day management and administration in the Office, without prejudice to arrangements governing individual grievances.

2. The Office recognizes the Union as the representative of the interests of its members within the Office for the purposes of social dialogue, information, consultation and collective bargaining.

3. The Union recognizes the rights and responsibilities of the Office to manage and vest its Management to do so, who shall at all times be solely responsible therefor.(...)"

Article 20 Universal Declaration of Human Rights.

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)- *Article 2* Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3 1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise 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.

Article 4 Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5 Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - *Article 1* 1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment. 2. Such protection shall apply more particularly in respect of acts calculated to-- (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership; (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2 1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. 2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of

placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3 Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

Article 4 Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Labour Relations (Public Service) Convention, 1978 (No. 151) –

Part II. Protection of the Right to Organise - Article 4 1. Public employees shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment. 2. Such protection shall apply more particularly in respect of acts calculated to-- (a) make the employment of public employees subject to the condition that they shall not join or shall relinquish membership of a public employees' organisation; (b) cause the dismissal of or otherwise prejudice a public employee by reason of membership of a public employees' organisation or because of participation in the normal activities of such an organisation.

Article 5 1. Public employees' organisations shall enjoy complete independence from public authorities. 2. Public employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration. 3. In particular, acts which are designed to promote the establishment of public employees' organisations under the domination of a public authority, or to support public employees' organisations by financial or other means, with the object of placing such organisations under the control of a public authority, shall be deemed to constitute acts of interference within the meaning of this Article.

Part III. Facilities to be Afforded to Public Employees' Organisations - Article 6 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.

Part IV. Procedures for Determining Terms and Conditions of Employment - Article 7 Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organisations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters.

Part V. Settlement of Disputes - Article 8 The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved.

ILO Circular 448 (rev.1), s.6, 8 December 2003

Preamble

1. The Staff Union and its representatives play an important role in promoting staff management relations within the Office. This role is recognized in the Staff Regulations, in particular article 10.1, and in the Recognition and procedural agreement between the ILO and the ILO Staff Union. 2. Arrangements have long been in place for the provision of facilities to the Union as the body representing the interests of the staff for the exercise of its mandate. Such facilities include inter alia staff resources, office space, communication and interpretation costs and release of its representatives from the duties to which they are assigned under article 1.9 (Assignment of duties) of the Staff Regulations. 3. This Circular, which cancels and replaces Circular No. 448, Series 6, of 22.10.1990, sets out the practical arrangements for the release of Union representatives from their duties in order to perform their union functions. The term "Union representative(s)" as used in this Circular includes:(a) elected members of the Staff Union Committee;(b) officers of the Staff Union Committee;(c) elected Union shop stewards at headquarters and in the field; and (d) union officials and other such officials who may be appointed by the Union to represent it.

R143 Workers' Representatives Recommendation, 1971

2. For the purpose of this Recommendation the term *workers' representatives* means persons who are recognised as such under national law or practice, whether they are-- (a) trade union representatives, namely representatives designated or elected by trade unions or by the members of such unions; or (b) elected representatives, namely representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognised as the exclusive prerogative of trade unions in the country concerned. (...)

5. Workers' representatives in the undertaking should enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

6. (1) Where there are not sufficient relevant protective measures applicable to workers in general, specific measures should be taken to ensure effective protection of workers' representatives. (2) These might include such measures as the following: (a) detailed and precise definition of the reasons justifying termination of employment of workers' representatives; (b) a requirement of consultation with, an advisory opinion from, or agreement of an independent body, public or private, or a joint body, before the dismissal of a workers' representative becomes final; (c) a special recourse procedure open to workers' representatives who consider that their employment has been unjustifiably terminated, or that they have been subjected to an unfavourable change in their conditions of employment or to unfair treatment; (d) in respect of the unjustified termination of employment of workers' representatives, provision for an effective remedy which, unless this is contrary to basic principles of the law of the country concerned, should include the reinstatement of such representatives in their job, with payment of unpaid wages and with maintenance of their acquired rights; (e) provision for laying upon the employer, in the case of any alleged discriminatory dismissal or unfavourable change in the conditions of employment of a workers' representative, the burden of proving that such action was justified; (f) recognition of a priority to be given to workers' representatives with regard to their retention in employment in case of reduction of the workforce.

7. (1) Protection afforded under Paragraph 5 of this Recommendation should also apply to workers who are candidates, or have been nominated as candidates through such appropriate procedures as may exist, for election or appointment as workers' representatives. (2) The same protection might also be afforded to workers who have ceased to be workers' representatives. (3)

The period during which such protection is enjoyed by the persons referred to in this Paragraph may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation.

8. (1) Persons who, upon termination of their mandate as workers' representatives in the undertaking in which they have been employed, resume work in that undertaking should retain, or have restored, all their rights, including those related to the nature of their job, to wages and to seniority. (2) The questions whether, and to what extent, the provisions of subparagraph (1) of this Paragraph should apply to workers' representatives who have exercised their functions mainly outside the undertaking concerned should be left to national laws or regulations, collective agreements, arbitration awards or court decisions.

IV. Facilities to be Afforded to Workers' Representatives

9. (1) Such facilities in the undertaking should be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently. (2) In this connection account should be taken of the characteristics of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned. (3) The granting of such facilities should not impair the efficient operation of the undertaking concerned.

10. (1) Workers' representatives in the undertaking should be afforded the necessary time off from work, without loss of pay or social and fringe benefits, for carrying out their representation functions in the undertaking. (2) In the absence of appropriate provisions, a workers' representative may be required to obtain permission from his immediate supervisor or another appropriate representative of management designated for this purpose before he takes time off from work, such permission not to be unreasonably withheld. (3) Reasonable limits may be set on the amount of time off which is granted to workers' representatives under subparagraph (1) of this Paragraph.

11. (1) In order to enable them to carry out their functions effectively, workers' representatives should be afforded the necessary time off for attending trade union meetings, training courses, seminars, congresses and conferences. (2) Time off afforded under subparagraph (1) of this Paragraph should be afforded without loss of pay or social and fringe benefits, it being understood that the question of who should bear the resulting costs may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation.

12. Workers' representatives in the undertaking should be granted access to all workplaces in the undertaking, where such access is necessary to enable them to carry out their representation functions.

13. Workers' representatives should be granted without undue delay access to the management of the undertaking and to management representatives empowered to take decisions, as may be necessary for the proper exercise of their functions.

14. In the absence of other arrangements for the collection of trade union dues, workers' representatives authorised to do so by the trade union should be permitted to collect such dues regularly on the premises of the undertaking.

15. (1) Workers' representatives acting on behalf of a trade union should be authorised to post trade union notices on the premises of the undertaking in a place or places agreed on with the management and to which the workers have easy access. (2) The management should permit workers' representatives acting on behalf of a trade union to distribute news sheets, pamphlets, publications and other documents of the union among the workers of the undertaking. (3) The union notices and documents referred to in this Paragraph should relate to normal trade union activities and their posting and distribution should not prejudice the orderly operation and tidiness of the undertaking. (4) Workers' representatives who are elected representatives in the meaning of clause (b) of Paragraph 2 of this Recommendation should be given similar facilities consistent with their functions.

16. The management should make available to workers' representatives, under the conditions and to the extent which may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation, such material facilities and information as may be necessary for the exercise of their functions.

ICSC

Statute, art.28 “2. Executive heads of the organizations and staff representatives 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 executive heads and staff representatives in the rules of procedure established under article 29.”

Rules of Procedure, R.37 “2. Representatives designated by an executive head or staff representatives may, at their request, be invited to attend meetings and to address the Commission on matters that concern the common system as a whole or that are of local interest to several participating organizations. 3. Such representatives may also, under arrangements to be made by the Executive Secretary at their request, appear before the Chairman, Vice-Chairman or any other member of the Commission to whom a function has been delegated pursuant to paragraph 2 of article 18 of the statute, and before any committee, panel or subsidiary body established under rule 12.”

Note to Rule 37: The text was approved, it being understood that the rule was adopted in the interest of organizing the Commission's proceedings with the maximum efficiency, but with respect for the spirit of the Commission's statute calling for the fullest possible consultation with executive heads and staff, and for the Commission's express desire for the widest participation in its work. It would therefore be interpreted in a liberal way.

Collective bargaining (ILO In Focus Programme on Social Dialogue)

“Collective bargaining serves a dual purpose. It provides a means of determining the wages and conditions of work applying to the group of workers covered by the ensuing agreement through free and voluntary negotiations between the two independent parties concerned. It also enables employers and workers to define by agreement the rules governing their relationship. These two aspects of the bargaining process are closely interrelated. Collective bargaining takes place between an employer, a group of employers or one or more employers' organisations on the one hand and one or more workers' organisations on the other. It may take place at many different levels, with one level sometimes complementing the other: a unit within an enterprise, enterprise level, sectoral, regional and national level.”

R113 Consultation (Industrial and National Levels) Recommendation, 1960

1. (1) Measures appropriate to national conditions should be taken to promote effective consultation and co-operation at the industrial and national levels between public authorities and employers' and workers' organisations, as well as between these organisations, for the purposes indicated in Paragraphs 4 and 5 below, and on such other matters of mutual concern as the parties may determine. (2) Such measures should be applied without discrimination of any kind against these organisations or amongst them on grounds such as the race, sex, religion, political opinion or national extraction of their members.
2. Such consultation and co-operation should not derogate from freedom of association or from the rights of employers' and workers' organisations, including their right of collective bargaining.

3. In accordance with national custom or practice, such consultation and co-operation should be provided for or facilitated-- (a) by voluntary action on the part of the employers' and workers' organisations; or (b) by promotional action on the part of the public authorities; or (c) by laws or regulations; or (d) by a combination of any of these methods.

4. Such consultation and co-operation should have the general objective of promoting mutual understanding and good relations between public authorities and employers' and workers' organisations, as well as between these organisations, with a view to developing the economy as a whole or individual branches thereof, improving conditions of work and raising standards of living.

5. Such consultation and co-operation should aim, in particular--(a) at joint consideration by employers' and workers' organisations of matters of mutual concern with a view to arriving, to the fullest possible extent, at agreed solutions; and (b) at ensuring that the competent public authorities seek the views, advice and assistance of employers' and workers' organisations in an appropriate manner, in respect of such matters as-- (i) the preparation and implementation of laws and regulations affecting their interests; (ii) the establishment and functioning of national bodies, such as those responsible for organisation of employment, vocational training and retraining, labour protection, industrial health and safety, productivity, social security and welfare; and (iii) the elaboration and implementation of plans of economic and social development.