



ELEVENTH ITEM ON THE AGENDA

Review of contracts policy

Introduction

1. This paper provides information on the purpose, objectives and status of the current review of contracts policy within the Office. In doing so, it identifies the contract types currently in use, outlines changes in contract policy under way elsewhere in the United Nations common system and provides details on the direction of internal discussions on contract reform.

Purpose and objectives of the review

2. The overall employment context in the Office is characterized by stable, long-term work programmes, work programmes in transition to new modalities, surges in the volume and changes in the type of work as priorities alter or situations develop which require immediate responses. These changes may involve tasks of limited duration or reflect seasonal fluctuations in workload.
3. Current contractual provisions in the ILO are characterized by multiple contract types, complexity in employment arrangements and varied conditions of service. All this has resulted in a heavy and cumbersome policy framework and associated administrative processes. The continuation of this situation is not consistent with new management approaches in the Office, nor with operational needs. Nor is it consistent with the objectives of the new human resources strategy to provide for better overall management of staff, giving particular attention to simplifying, streamlining and modernizing HR practices. Contract proliferation has also contributed to an increasing number of staff who serve long periods on short-term contracts of one form or another. This has been a contributing factor to the incidence of precarious employment in the Office. Nor do the ILO's current arrangements reflect the evolving United Nations common system practice. In this respect, the International Civil Service Commission (ICSC) has made it clear during 2001 that, as soon as possible, it will provide organizations with a "catalogue" of

contractual arrangements that are flexible and offer a degree of autonomy between organizations in the actual arrangements they employ.¹

4. Against this background, the purpose of the current review of contract policy and practices is to examine current arrangements with a view to proposing changes which will achieve the following objectives: to adapt contractual arrangements to better serve current and future operational needs; to introduce greater equity and transparency in the Office's contract practices; and to rationalize and simplify contract administration. An ancillary objective is to eliminate the recurrence of precarious employment in the Office.

The current situation

5. The ILO currently uses four types of contract for the appointment of employees and two types of contract for persons who are not employees of the Office. The first group comprises without-limit-of-time (WLT) and fixed-term (FT) contracts for core staff (i.e. who hold jobs which are central to the work of the Office and undertake work of an ongoing, recurrent and continuing nature) and short-term (ST) and special short-term (SST) contracts for non-core staff. The second group comprises external collaboration (ExCol) contracts and service agreements (SA). As of October 2001, there were 868 WLT and 1,221 FT contracts. The use of SST/ST and ExCol contracts and service agreements varies from year to year. During 2000, there were 212 SST/ST contracts, 1,500 ExCol contracts and 539 SAs.
6. The following table summarizes the purpose, content and use by the Office of each of these contract types. A detailed description is set out in Appendix I. In brief, the nature of the job determines the type of appointment. On the one hand, jobs that correspond to core activities are filled either by WLT or FT contract holders who are regular staff and who may commit the ILO in terms of its financial or human resources or otherwise. On the other hand, non-core activities relating to jobs of an average duration of less than one year to less than five years are filled by SST/ST or FT contract holders respectively, or the activities are outsourced to independent contractors (ExCol and SA).

Table 1. Types of contract

Type of work performed	Regular, ongoing and recurrent	Temporary/short-term for outside assistance	
		Time-based	Task-based
Source of funds			
Regular budget	Without limit of time (WLT) Fixed term (FT)	Short term (ST) Special short term (SST)	External collaboration (ExCol)
Technical cooperation	Fixed term (international experts, associate experts and General Service staff)	Short term Special short term Service agreement (NPPPs) ¹	

¹ National professional project personnel.

¹ Report of the International Civil Service Commission for the year 2001 (A/56/30), para. 77.

Practices within the United Nations common system

7. In recent years, many international organizations have been engaged in internal reform processes with a view to leveraging greater results from fewer resources. In the area of human resources, the ILO is not alone in having decided to review its contract policy. Common system organizations have generally found that the multiplicity of types and conditions of contract currently in use makes existing systems administratively burdensome, inequitable and rigid, and deprives them of a rational means of expanding and contracting their workforces. Most common system organizations are now examining their contract policies to create more efficient approaches to engage qualified persons for varying types and lengths of work. Largely at the prompting of the then Consultative Committee on Administrative Questions, the ICSC has now decided to review contract policy in the context of its current review of pay and benefits systems. The Office considers it important not to wait until any ICSC recommendation(s) are available² before making progress on reforming ILO contract arrangements, it being understood that the Office would not propose any changes to the Committee which would be likely to contradict such recommendations.
8. Common system organizations use different contractual arrangements to carry out their respective mandates, but they are unanimous in requiring mechanisms which provide choices in staffing and which provide flexibility to assist in implementing their differing mandates and operational needs. A number of organizations (United Nations secretariat, UNHCR, UNDP, UNICEF, UNIDO, UNESCO, WHO, WFP) have already implemented or are exploring the setting in place of one or more of three types of contract for long-term, medium-term and short-term employment. Some organizations have already phased out “permanent” appointments of staff (United Nations secretariat, UNHCR, UNFPA, WHO). A number of these organizations have either already established (UNHCR, WFP) or are considering establishing (United Nations secretariat, UNIDO, UNICEF, UNESCO) continuing or indefinite appointments, which can be terminated at the initiative of a staff member or the organization concerned on the giving of the relevant period of notice and the payment of indemnities in specified circumstances. Current contractual arrangements within the common system are summarized in Appendix II.

Current status of the review of contract policy

9. The Human Resources Development Department (HRD) has recently commenced discussions with the Staff Union on the issue of employment contract reform. Paper GB.280/PFA/11 (paragraph 17) indicated that these discussions are directed towards reducing the number of contract types in use in the Office to three. The new contract types under discussion are:
- (a) *a contract of definite duration*, covering periods from one day to 364 days, which would replace the existing ST and SST contracts;
 - (b) *a contract of indefinite duration*, which would have no expiration date, but could be terminated either by the Office or by the official concerned after giving the required

² It should be noted that the sessional pattern of ICSC proceedings would preclude any recommendations on contract arrangements being forwarded to the United Nations General Assembly before late 2002.

notice, and with separation benefits payable at the end of the contract. Such a contract would replace the current FT and WLT contract; and

- (c) *a services contract*, which would replace both the ExCol and the SA and which would better convey the notion of consultancy and task-based work.

10. The views of the Committee are sought on this approach.

11. A progress report on the HRD/Staff Union discussions will be provided to the Committee at its session in March 2002.

Geneva, 23 October 2001.

Appendix I

Purpose, content and use of contract types currently in use by the Office

Contracts without limit of time

1. Contracts without limit of time (WLT) are awarded on the basis of available budgetary posts as defined by article 2.1 of the Staff Regulations. Amendments to article 4.6 of the Staff Regulations adopted in 1988¹ drew a distinction between a “post”, which represents the authority to award a WLT contract, and a “job”, which represents the work content derived from the duties and responsibilities assigned to an official. As a result, the nature and length of the work assigned to an official were no longer factors in deciding whether a WLT appointment should be made, but rather the availability of posts in each category and the fulfilment of specific criteria by fixed-term officials, namely “satisfactory performance as consistently reflected in several performance appraisal reports, seniority, as well as the official’s capacity to pursue a career having regard to his or her field of competence and the prospective needs of the Organization”.

Contracts of limited duration

2. Contracts of limited duration include FT, ST and SST contracts. They also include ExCols and SAs.

(a) Fixed-term contracts

3. FT contracts are those granted for not less than one year and not more than five years, in accordance with article 4.6(d) of the Staff Regulations. FT appointments are awarded in three different situations:
 - (1) *The execution of regular budget jobs of an ongoing and continuing nature* – External appointments to vacant or newly created jobs in the Office are systematically made for a fixed-term duration. These jobs are filled through competition in accordance with article 4.2 and Annex I of the Staff Regulations. Appointments are made with a probationary period of two years; such officials are included in the geographical distribution of staff, are eligible to pursue a career in the Office and if they fulfil the criteria set out by article 4.6 of the Staff Regulations are recommended for titularization² after a number of years.
 - (2) *The execution of a regular budget job “of a purely temporary nature, up to two years of a specialist nature, not expected to lead to a career in the ILO”*³ – These jobs are filled through direct selection under the special procedure of article 4.2(e) of the Staff Regulations; appointments are made exclusively on FT contracts; such officials are not included in the geographical distribution of staff and normally are not eligible for titularization.
 - (3) *The execution of technical cooperation (TC) programmes and projects which have an average duration of two to three years* (but sometimes last longer, as with IPEC and other major programmes) – These jobs are filled through direct appointments which are exclusively made on FT contracts for international Professionals (such officials are not included in the geographical distribution of staff and are not eligible to pursue a career in the ILO) and for local General Service staff assigned to the TC programme or project. The national execution

¹ Article 4.6(c).

² A five-year period has been established as the minimum length of service to become eligible for titularization.

³ Article 4.2(e) of the Staff Regulations. The period was extended to four years through ILO Circular, Series 6, No. 573 of 1997.

of such programmes or projects is performed by national professional project personnel (NPPPs) contracted on SAs.

4. International Professionals appointed under *TC international employment* are called experts and usually serve on TC programmes or projects. Their jobs are financed exclusively from TC funds. Associate experts are young Professionals who are selected by some industrialized member States⁴ and whose jobs are exclusively financed from the funds specifically provided by the country of which they are nationals (sometimes countries involved in the Associate Expert Scheme also finance the employment of young Professionals who are nationals of developing countries). Associate experts are awarded FT contracts for the duration established by the country providing the resources. They are normally expected to serve in TC programmes or projects. Employment as an expert is, by definition, of a limited duration as it is dependent upon the continuing availability of project funds and FT contracts are not renewed beyond completion of the programme or project. FT contract holders financed from TC funds or from the Associate Expert Scheme are not included in the geographical distribution of staff.
5. The services of *local TC employees* (or NPPPs) are contracted through service agreements (SA) exclusively financed from TC funds. Work under this type of contract is within the context of TC programmes or projects managed by international Professional staff. The SA is granted for short or long periods, is renewable subject to satisfactory service and involves duties and responsibilities of an ongoing nature assigned for the execution of the project. Persons contracted on SAs are not and do not act in the capacity of ILO officials and are not authorized to commit the Office's financial or human resources or otherwise.

(b) Short-term employment and external collaboration

6. Short-term activities or consultancy work to be completed in less than 12 months may be carried out with outside assistance. Appointments for this type of regular budget or TC programme activity are made directly by the line manager on the basis of ST or SST contracts for ongoing activities and ExCol contracts for consultancy work. It is an essential characteristic of outside assistance that each specific use made of the short-term contract and the external collaboration contract is temporary and of definite duration.

(i) ST and SST contracts

7. ST contracts are those granted for less than one year in accordance with the Rules Governing Conditions of Service of Short-term Officials. SST contracts are those granted for less than six months and not more than five months and three weeks.
8. The distinguishing feature of a short-term appointment, whether regular short-term or special short term, is that the contract is time-based and thus comprises several tasks to be completed over a specified period of time, such that the work is defined in terms of duties and responsibilities to be performed (which are normally the same as or similar to those performed by core staff); the contractor's presence is required at the Office during established working hours and for a prescribed period during which office space and other facilities and services are provided; the work is supervised within the established hierarchical structure; payment is made on a daily or monthly basis; the person employed is regarded as an ILO official (as such, he/she is entitled to a laissez-passer for travel on mission and a carte de légitimation to reside in Switzerland); and the person is exempt from taxation on ILO earnings.⁵

⁴ Countries which finance the Associate Expert Scheme are Austria, Belgium, Denmark, Finland, France, Germany, Italy, Japan, Republic of Korea, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland.

⁵ For further details see ILO Circulars, Series 6, No. 393 of 30 Sep. 1987 and No. 439 of 13 June 1990.

(ii) External collaboration contracts

9. By contrast, an ExCol contract is task-based. It may only be used where there is a specific well-defined task to be performed and the output can be considered as a specific end-product (e.g. provision of a research study, report, translation or information technology service) and/or where the task assigned is of an advisory nature. The conditions under which the ExCol contract may be used are that the work to be carried out is a one-time, finite piece of work and not an ongoing activity; the work is performed in the contractor's own time and at any place of his/her choice; office space, facilities or services are not normally provided; payment is made only when the work has been completed and judged satisfactory (except that partial payments for work in progress may be authorized by the Treasurer and Financial Comptroller); the contractor is not and does not act in the capacity of an official of the ILO and is not authorized under any condition to commit the Office's financial or human resources.⁶

⁶ See ILO Circular, Series 6, No. 11 (Rev. 4) of 15 July 1988.

Appendix II

Current contractual arrangements within the United Nations common system

1. To a greater or lesser extent, historically, other common system organizations have used the same types of contract as the ILO. The overall situation in a number of organizations, as well as changes being implemented by some of them, are set out below.
2. *WHO* recruits initially for a fixed term of two years and the first year is probationary. In theory, a two-year fixed-term contract may be converted into a five-year fixed-term contract after a minimum of four years' (2 x 2 FT) satisfactory service. However, *WHO* is currently reviewing its contractual arrangements and, pending the outcome of this review, all extensions of fixed-term contracts are being limited to two years (except for those who already hold five-year fixed-term contracts). *WHO* also has "career service" appointments which used to be granted to a maximum of 30 per cent of staff up to P.3 and 15 per cent of P.4 and above, subject to five years' satisfactory service. However, there has been a moratorium on these appointments since 1993 (imposed for budgetary reasons). The maximum length of short-term contracts (for Professional and General Service staff) is 11 months; in practice, this requirement may be circumvented by the use of a mandatory service break, followed by a new contract. Finally, *WHO* employs short-term consultants who are considered as staff. Their contracts are normally from one to six months and may exceptionally be extended to 11 months. The difference between the short-term staff and consultants is in (a) pay: short-term officials (P and GS) are paid the normal United Nations scale, whereas consultants are paid on a range of rates; (b) while short-term officials are not assigned against the duties of a post, they may carry out the duties assigned to a post; by contrast, consultants may be employed only in an advisory/consultative capacity.
3. *PAHO* recruits on fixed-term contracts of two years. Renewals for five-year periods are possible upon the recommendation of the supervisor, subject to the availability of funds and provided the staff member has had at least six satisfactory performance evaluations. *PAHO* does not issue permanent appointments. The maximum length of short-term contracts is 11 months; these can be re-issued up to a maximum of four times consecutively.
4. *UNIDO* recruits headquarters staff on a fixed-term basis for a duration of three years for P.1 to P.5 posts, and two years for D.1 and above; the first year is a probationary period. For field staff, the contract duration is from one to two years. Extensions of appointments are given for the same differentiated duration, but in the case of D.2 officials there is an overall limit which cannot exceed the term of office of the Director-General by more than six months. In addition, for all Professional and D.1 staff, *UNIDO* applies a maximum duration in the organization of six years, at which point the needs of the organization and the quality of service of the staff members concerned are reviewed, and decisions are made either to continue the above differentiated extensions, or to grant one final 12-month extension and inform the staff member that he/she will then be separated. In *UNIDO*, permanent contracts are no longer being issued. The organization has tried to introduce an indefinite duration contract, but its Governing Body has not so far agreed. As regards short-term appointments, in *UNIDO* the maximum duration is 364 days.
5. It might be noted that a number of organizations (*UNHCR*, *UNFPA*, the United Nations secretariat, and, as noted above, *WHO*) have discontinued issuing permanent contracts.
6. As of 1 January 2000, *UNHCR* offers indefinite appointments to all staff on posts, but has maintained the status of staff previously holding permanent contracts. This contract replaces 100 and 200 series appointments (i.e., fixed-term appointments) for regular and extra-budgetary posts and has begun to be granted to locally and internationally recruited staff in the field and at headquarters. Staff not appointed to a post (e.g. on temporary assistance or in a replacement capacity) are offered fixed-term appointments for any period between one and 364 days (i.e., short-term appointments are no longer used). Consultancy contracts have, however, been maintained.
7. *WFP* awards indefinite appointments to new staff and provides the following information in its vacancy notices: "The successful candidate will be offered an Indefinite Appointment, which holds no expiry date, but which is not a Permanent or Continuing Appointment status. An Indefinite Appointment is subject to a probationary period of 18 months".

8. Other organizations are moving in this direction. In March 2000, the *United Nations secretariat* presented a proposal to its staff representatives concerning the replacement of permanent appointments with continuing contracts. *UNICEF* has plans to do so within the year; and *UNESCO* recognizes the need to examine its existing approach, particularly with respect to the possible introduction of indefinite appointments. However, the staff representatives of the United Nations secretariat have so far opposed the introduction of indefinite appointments. As a result, there has been a moratorium on permanent contracts and the United Nations now recruits staff only on a fixed-term basis for a duration of one year each during the probation period (2 x 1). Extensions of appointment are given for a maximum of three years. Staff recruited through national competition exams receive a two-year fixed-term contract. The United Nations has taken measures to safeguard the permanent status of staff who held permanent contracts before the entry into force of the moratorium.
9. Of the organizations surveyed, the *UPU* was the only organization which stated that it still appointed most staff members on contracts without time limits, although it is conducting a major reorganization and is in the process of reviewing its contract policy.
10. A number of organizations are also creating alternative frameworks for the employment of persons under limited-duration arrangements. The introduction by at least four organizations (United Nations secretariat/UNDP/UNFPA and WFP) of the appointment for activities of limited duration (ALD)⁷ and by ITU of the managed renewal term (MRT),⁸ and their examination by the ICSC, and others attest to the concern of agencies to find new approaches.

⁷ A form of contract where employment is not expected beyond three years (or, in exceptional circumstances, four years). The ALD is awarded to Professional and General Service staff (local and international) for specialized functions (e.g. peacekeeping, humanitarian and special operational needs) and/or for temporary or emergency activity and for TC activities. ALD holders are officials of the organization concerned and enjoy most of the entitlements provided to core staff (including affiliation to the pension fund and health coverage). Salary is established in one lump sum amount.

⁸ It might be noted that use of this contract (for the employment of highly specialized professionals) has recently been suspended.