
INTERNATIONAL RENEWABLE ENERGY AGENCY

Second meeting of the Council

Abu Dhabi, 13 – 14 November 2011

Secondment of staff to the International Renewable Energy Agency**Report of the Director-General**

1. In the preambular part of decision A/1/DC/5, adopted on 5 April 2011, the Assembly took note of the need to clarify several issues relating to secondment of staff before a final decision could be taken by the Assembly at its second session. The decision requested the Director-General “to review the issues requiring clarification before a new approach on secondment of staff ensuring equal status and treatment for all staff members, and to present options and recommendations to the Council and the Assembly.”
2. In accordance with the terms of reference of the Governance and Legal Committee (“Committee”) established by decision A/1/DC/10/Rev.1, the matter was submitted to the Committee which considered it at its meeting on 24-25 August 2011. The present report has been prepared in light of the views expressed by Committee members and observers.

Background

3. It is important to recall that the Preparatory Commission was established on 26 January 2009 without any staff. Initially, it could only function through assistance provided by Signatories of the Statute, through personnel paid for and provided by Governments, in addition to the personal contribution of individual delegates to the work of various meetings organized under the auspices of the Preparatory Commission. Personnel provided by Governments to the Interim Secretariat were considered to be “on secondment”, and were subject to the Interim Regulations on Secondment of Staff to the Preparatory Commission adopted by the Preparatory Commission on 30 June 2009 (PC.2/DC.6). Their salary and entitlements were paid by the seconding Government,

typically from the budget of the Government entity which employed them, at the rate applicable to other Government employees. Under the Secondment Regulations, the Interim Secretariat also paid them subsistence allowances computed on a monthly and a daily basis.

4. In 2010, the Secretariat of the Preparatory Commission recruited a small number of staff members for key positions. These staff members (“direct recruits”) worked side by side with personnel provided by Governments. As a result, the Interim Secretariat consisted of individuals with a different legal status and substantially different conditions of service.
5. In February 2011, the Working Group on Legal Issues discussed the issues that had arisen in the Interim Secretariat as a result of the situation. The main issues were as follows:
 - a. The status of seconded personnel is not entirely clear as to whether they are truly “staff members” or a second class of personnel who are limited in respect of what they can do, and how they can conduct their work;
 - b. Although the principles set out in the Secondment Regulations regarding recruitment and accountability are similar to those applicable to staff recruited under the Staff Regulations, their application was such that questions were raised as to the authority of the executive head to make an informed decision on the selection of seconded individuals and to hold them accountable;
 - c. Each secondee receives pay and benefits on the basis of his or her individual contract with the seconding government. This results in substantial disparities vis-à-vis direct recruits serving under conditions of service that are defined by reference to UN common system standards, as well as vis-à-vis secondees from other governments who are remunerated on substantially different terms;
 - d. As a result, Agency personnel who are called upon to work cooperatively, side by side, frequently at the same level, serve under widely different conditions of service, thus affecting morale and productivity;
 - e. Payment by the Agency to secondees of subsistence allowances in addition to the remuneration they receive from their respective Governments is done on a basis and in amounts markedly different from the system used for staff members, thus increasing the differences in conditions of service and making the system more difficult to administer.

6. The Working Group considered several possible options. As indicated in the Chair's note on the subject¹, there was general agreement to move to a new approach which would fully integrate secondees as staff members. The Chair's note summarized the agreed upon goal as follows:

“The new approach should ensure that seconded staff would serve as full-fledged staff members, with the same status, obligations and conditions of service as other staff members, and without restrictions on the functions they could perform. Seconded staff would no longer receive salaries and allowances from the seconding entity but would be paid by the Agency like other staff, thus ensuring respect for the principle of equal pay for equal work. The seconding entity would pay to the Agency the cost of salaries and benefits paid to the seconded staff members.”

7. The Chair's note pointed out that several issues needed to be clarified before a final decision could be taken, notably on:
- a. Appropriate transition arrangements for current secondees;
 - b. The most appropriate terms of secondee remuneration, bearing in mind the need for the consideration of equity both within IRENA as well as the seconded staff's home post;
 - c. Whether seconding entities should be restricted to governments or the public sector, or be open to other sources, including the private sector.
8. The Assembly resolved the first issue in its decision A/1/DC/5, in which it decided to maintain in force the Secondment Regulations adopted by the Preparatory Commission (PC.2/DC.6) until a final decision is taken by the Assembly on the regime that will govern secondment of staff in future.
9. The situation has evolved significantly since the Working Group considered the matter in February 2011. The Agency itself came into being on 5 April 2011, and the Assembly adopted a budget covering the staffing needs required for the execution of the work programme. A recruitment campaign is currently under way to fill available positions.

¹ The Chair's note was attached to document PC.5/DC.4, and is also annexed to this report for ease of reference.

Consideration by the Governance and Legal Committee

10. In its decision A/1/DC/10/Rev.1, the Assembly established three Committees as subsidiary bodies of the Council. Policy and structure for secondments were part of the terms of reference of the Governance and Legal Committee. The Committee considered the issues relating to secondment when it met on 24 and 25 August 2011. As requested by the Committee, participants were subsequently given the opportunity to make further comments.
11. Several participants noted that secondment under its current regime had been necessary when the Secretariat of the Preparatory Commission had been established because of lack of staff and limited resources. They also noted that the situation had evolved since that time. Support was expressed for prompt action to achieve full staffing against available resources, under regular staff contracts.
12. It was also observed that, while the principle of equal pay for equal work was important, it had to be balanced against other considerations, including the need for flexibility and consistency with conditions of service of other staff in the secondee's home country. The importance of flexibility was emphasized, as well as the need to consider mechanisms other than secondment for the Agency to obtain the services of individuals who would perform defined tasks as needed.
13. Some participants said that payment of secondees' salaries and benefits by the Agency against funds contributed by the seconding entities, rather than by the seconding entity, would be a source of difficulties under applicable internal regulations, and that this would not be acceptable to the Members concerned.
14. The Committee agreed on the importance of ensuring the application to secondees of the Staff Regulations and Rules governing duties and obligations, including those relating to ethics and conduct. Views differed in relation to salaries and benefits. One participant emphasized that positions to be filled by secondment should be announced and should be filled after a competitive process.
15. Regarding the question of whether seconding entities should be restricted to governments and the public sector or be extended to include international and regional governmental organizations, non-governmental organizations, and the public sector, several participants expressed strong support for a broad extension which would include the private sector. One participant opposed extension to the private sector in principle. Others underlined that, if secondment was extended to non-governmental sources, especially the private sector, strong safeguards should be put into place to prevent conflicts of interest.
16. One participant highlighted the advantages for both the receiving and the releasing entities under a traditional secondment model, which did not require monetary contribution from the releasing entity (typically a Government) to the receiving entity (the Agency, in this case). This would make it possible for the seconded individual to

work for the Agency, to acquire valuable knowledge concerning substantive work and experience in an international setting, and to return to Government service with newly acquired expertise. In subsequent comments, one Committee member expressed the view that secondment in any form raised issues of conflict of interest and should not be permitted in any form in future, from either a government or the private sector.

17. Addressing the possibility of using different mechanisms, such as loan of personnel where the personnel loaned to the Agency by a Government or other entity would serve in the Agency for a limited purpose and for limited time, receiving salary and benefits comparable to those of the loaning entity rather than the Agency, one Committee member expressed the view that this would not be suitable as it would depart from the goal of creating homogeneous conditions for all personnel, consistent with the principle of equal pay for equal work.

Review of possible mechanisms that would meet the needs of the Agency

Preliminary remarks

18. Before reviewing the various ways in which the Director-General considers that the Agency could obtain personnel in addition to staff directly recruited under the Staff Regulations and Rules, it is important to recall that the situation of the Agency and its Secretariat is now very different from what it was in 2009 for the Preparatory Commission and the Interim Secretariat. A comprehensive work programme is now in place, with appropriate funding to meet the cost of personnel required to implement that programme. The Agency is now in a position to proceed with direct recruitment of staff, after a competitive process to identify the best candidates. Selected candidates will then be appointed under the Staff Regulations and Rules, with all the consequent rights, duties and obligations. The Secretariat is in the process of recruiting the staff required for that purpose.
19. It is also important to distinguish among the various needs flowing from the work programme approved and budgeted for by the Assembly or otherwise funded through contributions meeting the requirements of the Financial Regulations. Of particular relevance in that context is the distinction between continuous needs for core activities and administrative support and needs that are of a more limited and temporary nature, such as technical expertise that is not required on a continuing basis, work on defined projects of limited duration, or additional support to meet other temporary needs such as an increase in workload during peak periods.
20. Continuing needs would normally be met by recruiting staff under the Staff Regulations and Rules and giving them a fixed-term appointment (one year or longer). This would be the primary means for the Agency for securing the services of individuals selected to perform continuing core functions under the work programme.

21. Temporary needs could be met either by using temporary appointments under the Staff Regulations and Rules (less than one year) or by using one of the other contractual mechanisms frequently used by international organizations to obtain the type of services they need, including contracts to retain the services of individual experts, consultants or other personnel required, as well as loan of personnel from another international organization, a Government, or other sources. These arrangements allow for a large measure of flexibility, which is essential to meet the broad range of temporary needs experienced by any international organization. This is especially so in the case of the Agency, whose activities as defined in Article IV of the Statute must be met through a judicious, efficient and creative use of resources in order to achieve the wide-ranging and ambitious objectives set in the Statute. This requires close cooperation and synergy with existing institutions and organizations involved in renewable energy while avoiding unnecessary duplication of work.

Possible mechanisms

22. After briefly recalling some of the most significant features of the current system, the following paragraphs will set out alternative mechanisms for the Secretariat to obtain the services of individuals on a basis other than under direct recruitment, on the clear understanding that priority would be given to direct recruitment of staff for the execution of continuing core functions funded by the budget.

A. The current system

23. Under the Interim Regulations on Secondment of Staff adopted by PC.2/DC.9 in 2009, Members of the Preparatory Commission could second to the Preparatory Commission staff employed by them in their public administration so that the Preparatory Commission could use their expertise.² Secondees remained in the service of the seconding Member throughout the period of secondment,³ during which the secondee would continue to receive salary and benefits from the seconding Member in accordance with his or her administrative status. The secondees also received a daily and a monthly subsistence allowance paid by the Commission. The Regulations recognized that the proper discharge of the responsibilities of the Secretariat should primarily be ensured by recruitment of staff, and that secondment of officials should be restricted to the extent necessary to ensure the proper functioning of the Secretariat.⁴

24. As evidenced by the list of issues brought to the attention of the Working Group on Legal Issues in February 2011,⁵ application of these Regulations created serious concerns, especially after the number of direct recruits started to grow and continuing core functions were performed by individuals serving on very different terms and conditions of service.

² Regulation 1.1.

³ Regulations 2.1 and 4.1.

⁴ Regulation 2.3.

⁵ See paragraph 5 above.

B. Secondment model used in other international organizations

25. Under the secondment model used in most of the organizations of the UN common system, when an organization (the “receiving organization”) conducts a competitive process for a vacant position and selects an individual who is employed by a Government or another organization, the employer may agree to release the employee to work for the receiving organization for a period during which the employee will be appointed as a staff member of the receiving organization – in this case the Agency, with all the resulting consequences on rights, duties and obligations. The typical secondment arrangement includes the understanding that, at the end of the secondment period, usually two to three years, secondees will return to the Government or organization that released them for service with the receiving entity. The resulting cross-pollination is beneficial to both the releasing and the receiving entities.
26. If used in that manner, secondment becomes in effect a sub-category of direct recruitment. Candidates whose employer would agree to release them for service with the Agency would go through a competitive process to determine whether they would be the best candidates. As is the case in non-secondment cases, recruitment would be subject to the criteria set out in staff regulation 5.2(a).⁶ Upon selection, a candidate would be appointed under the Staff Regulations and Rules with the same rights, duties and obligations as any other staff member performing core functions at the same level, and would be paid by the Agency on the same terms and conditions as any other staff member.
27. Application of this mechanism would resolve the issues mentioned in paragraph 5 above. The approach would meet the goal formulated in February 2011 to “ensure that seconded staff would serve as full-fledged staff members, with the same status, obligations and conditions of service as other staff members” and that seconded staff would be “paid by the Agency like other staff”. It would appear to be well suited for positions where the incumbent would meet a continuing need of the Agency, and would receive a fixed-term appointment.
28. Appointment on secondment as described above would be fully consistent with staff regulation 5.1, which specifically provides that, upon appointment, “each staff member, including a staff member on secondment, shall receive a letter of appointment in accordance with Annex 1 to the present Regulations....”. Annex 1 in turn provides in relevant part:
- “(c) The letter of appointment of a staff member on secondment signed by the staff member and by or on behalf of the Director-General, and relevant supporting

⁶ Staff regulation 5.2(a) provides: “In accordance with Article XI, paragraph C, of the Statute, the paramount consideration in the employment of the staff 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 primarily from Members and on as wide a geographical basis as possible, taking particularly into account the adequate representation of developing countries and gender balance.”

documentation of the terms and conditions of the secondment agreed to by the Member or other seconding entity and by the staff member, shall be evidence of the existence and validity of secondment to the Agency for the period stated in the letter of appointment.”

C. Appointment of staff funded by voluntary contributions

29. A variant of the secondment model mentioned above is also frequently used in many international organizations, typically for Junior Professional Officers or Associate Experts programmes. In that context, Governments and other entities having agreed to participate are informed by the receiving organization of the positions that could be filled under the programme, and disseminate that information to potential candidates. The receiving organization evaluates candidates who have applied for the positions. Upon selection of the best qualified candidates, the receiving organization appoints the selected individuals as staff members under the applicable Staff Regulations and Rules and pays the corresponding salary and entitlements, as would be the case for staff seconded under the secondment model described in point B above. Unlike a normal secondment, however, the Governments or entities concerned contribute in advance the funds against which with salary and entitlements of the staff members appointed under the programme will be charged, as well as the related administrative costs incurred by the receiving organization.⁷
30. Here again, since the selected person is appointed as a staff member of the receiving entity under its Staff Regulations and Rules, with the same rights, duties and obligations as other staff members, and is paid by the receiving entity on the same terms and conditions as other staff members at a comparable level, the issues mentioned in paragraph 5 above would not arise and the goal restated in paragraph 27 above would be met.
31. Should this approach be endorsed for the Agency, it could be used not only for junior professionals at the P-2 or P-3 level but, depending on the qualifications and experience of the individuals concerned, for professional staff at a higher level as well.

D. Loan agreements

32. Under a loan agreement, a model also frequently used by other international organizations, the individual whose services are loaned to the Agency maintains his or her contractual status with the original employer, and continues to be paid by that employer. Loan arrangements can be made with a wide range of sources, including Governments, international organizations, public sector entities, universities or research institutions, non-governmental organizations, and the private sector.

⁷ Administrative costs are charged to cover the indirect costs incurred by the receiving organization as a result of the appointment and administration of staff members funded through voluntary contributions. This is required by most of the Financial Regulations of international organizations which contain a provision similar to Interim Financial Regulation 7.1.

33. In negotiating the terms of the agreement, the Agency and the employer would have to agree as to whether the loan would be on a reimbursable or non-reimbursable basis. In a reimbursable loan, the Agency would reimburse to the employer the costs of salary and benefits paid to the loaned individual for the duration of the loan. In a non-reimbursable loan, the arrangement would in essence be an in-kind voluntary contribution from the employer to the Agency.
34. Use of the loan model would meet the concern that the conditions of service of an individual whose services were provided by a Government or other source should not result in that individual receiving for the duration of his or her service with the Agency a substantially better remuneration package than his or her colleagues continuing to work with the employer having agreed to loan the individual concerned to the Agency.
35. The Director-General has noted the objection made by one Member that loan agreements are not consistent with the principle of equal pay for equal work. In his view, however, the concern does not arise in this context in the same manner as it did under the secondment model adopted by the Preparatory Commission because loan arrangements would be made to meet specific and temporary needs (as opposed to continuing core functions) that could not effectively be met by recruitment of staff. Loan arrangements would be particularly useful to the Agency in obtaining expert knowledge and experience in technical areas when the individual concerned and his or her current employer would be willing to assist the Agency for a limited time.
36. Individuals loaned by an international organization applying the conditions of service of the UN common system would be serving in the Agency under the same conditions as Agency staff since, in accordance with staff regulations 4.1 and 4.2, salary and allowances are determined in the Agency by reference to the UN common system. The issue of equal pay for equal work does not arise.
37. For reimbursable loans from an entity other than another international organization of the UN common system, it would be incumbent on the Director-General to ensure that the costs to the Agency represent value for money, i.e. that they are commensurate with the costs that would have been incurred if the services had been obtained by other means, for instance direct recruitment or issuance of an individual contract with a consultant having the required expertise.
38. As is the case in other international organizations where the executive head defines the conditions and terms of engagement of personnel other than staff, the Director-General, acting in accordance with the authority conferred by staff regulation 5.6, would define the regime applicable to loaned personnel on the basis of the general principles set out in this report. All personnel provided on a loan basis to the Agency would be made subject to the duties and obligations set out in the Staff Regulations and Rules, including the Code of Conduct and any policy decision that may be taken by the Assembly on ethics and conflicts of interest, as further explained in paragraph 44 below.

39. Overall, the Director-General believes that loan arrangements, either on a reimbursable or a non-reimbursable basis, provide a flexible tool that would allow the Agency to meet the wide range of its temporary needs as they arise, and to obtain expertise from the most advanced renewable energy sectors that may otherwise not be available.

E. Individual contracts

40. Finally, the Agency has the ability to retain individual contractors to perform services of a limited duration (e.g., specific expertise for a finite project, temporary needs which cannot be filled by existing staff) by concluding with them individual contracts to retain the services of consultants, experts, advisers or other temporary personnel.

41. Here again, the issue of equal pay for equal work does not arise because individual contractors have a status and conditions of service very different from those of staff and are not expected to perform core functions on a continuing basis.

Type of seconding entity

42. The scope of the Secondment Regulations temporarily maintained in force by decision A/1/DC/5 was limited to “staff employed by a Member of the Preparatory Commission in its public administration and seconded by the Member to the Preparatory Commission so that the Preparatory Commission can use their expertise”.⁸ The expression “public administration” was defined in Regulation 1.2 as “all State administrative services at central, federal and regional level, comprising ministries, government and parliament services, the courts, central banks, and the administrative services of local authorities, as well as the decentralized administrative services of the State and of such authorities.”

43. When the Governance and Legal Committee considered the question of whether seconding entities should be restricted to governments and the public sector, or be open to other sources, including the private sector, one delegation opposed the principle of opening secondment to sources other than public administrations but it appears that the more general view was that, regardless of the nature of the entity releasing an individual for service with the Agency, strong safeguards were required to protect the Agency against conflicts of interest.

⁸ Regulation 1.1.

44. The necessary safeguards could consist of the following:
- a. For seconded individuals (either under the secondment model described in paragraphs 23 to 26 or under the variant described in paragraphs 27 to 29), the Staff Regulations, Staff Rules and the Code of Conduct already provide a regime containing strong safeguards against conflicts of interests. These provisions will be reviewed and strengthened as necessary after the adoption of a new policy on Ethics and conflicts of interest currently under preparation, which would also be immediately applicable to seconded staff;
 - b. For individuals who would be on loan to the Agency, the loan agreement between the loaning entity and the Agency would have a specific provision that they would be subject to the authority of the Director-General while performing their functions for the Agency, that they would be subject to the provisions of the Staff Regulations and Staff Rules regulating the conduct of staff members, including the Code of Conduct, and to any new policy on Ethics and conflicts of interest, and that the loan agreement would be terminated by the Agency if the loaned individual violated any of his or her obligations in that regard. All this would be reflected in the Memorandum of Understanding that the loaned individual would be required to sign before starting work with the Agency;
 - c. The Agency would ensure that an individual seconded from or loaned by a private sector entity would not work in an area that could possibly result in a financial gain for the seconding or loaning entity or create a conflict of interest between the Agency and the entity concerned;
 - d. Contracts signed by individual contractors (consultants, advisers, experts, etc.) already include a provision acknowledging that they have received a copy of the Code of Conduct, that they are bound by it and that their contract will be terminated if they violate any of the applicable provisions. The form contract will be amended as necessary after the adoption of a policy on Ethics and conflicts of interest.
45. Provided the above safeguards are in place, the Director-General is of the view that, consistent with Article IV of the Statute which encourages interaction with other governmental and non-governmental organizations in the field of renewable energy and other relevant fields, arrangements leading to secondment, provision of staff funded from voluntary contributions and loan to the Agency of employees of all such governmental and non-governmental organizations should be authorized.
46. It is also the view of the Director-General that secondment, provision of staff funded from voluntary contributions and loan of personnel should be further broadened to include other entities having demonstrated expertise in the field of renewable energy and

other relevant fields, including universities, research institutions, as well as not-for-profit and for-profit entities. This would provide a healthy input from entities where the most innovative and state of the art approaches may be found.

Recommendations

The Director-General recommends that the Assembly:

47. Decides that the regime established by the Interim Regulations on Secondment of Staff to the Preparatory Commission adopted by decision PC.2/DC.6 of 30 June 2009 may no longer be used for the conclusion of new arrangements after adoption of its decision;
48. Decides that personnel currently serving on secondment under the regime established by decision PC.2/DC.6 may continue to serve under that regime until the end of the secondment arrangement in place at the time of the Assembly's decision;
49. Decides to replace the regime established by decision PC.2/DC.6 by the approach set out in paragraphs 25 to 41 of the report which would enable the Agency to meet a broad range of needs through a variety of mechanisms to be selected as appropriate based on the requirements of the parties concerned;
50. Recognizes that secondment arrangements as described in paragraphs 25 to 27 of the report, leading to the appointment of seconded officials as staff members of the Agency with the same rights, duties and obligations as any other staff members, is a mutually beneficial arrangement for both the seconding entity and the Agency;
51. Takes note of the fact that staff regulation 5.1 and paragraph (c) Annex 1 to the Staff Regulations permit and regulate such secondment arrangements;
52. Approves the introduction of a mechanism under which Members would make voluntary contributions to the Agency to finance the full cost of hiring and administering qualified staff members for periods of one year but not more than three years to perform services that are consistent with the objectives of the work programme and require resources not provided by mandatory contributions from Members;
53. Endorses the practice of loan of personnel to the Agency, on a reimbursable or non-reimbursable basis, to perform services on projects that are consistent with the objectives of the work programme;

54. Authorizes the Director-General to conclude the above arrangements in accordance with the provisions of the present decision with governmental and non-governmental organizations active in renewable energy and other relevant fields, and with other entities having demonstrated expertise in renewable and other relevant fields, including universities, research institutions, as well as not-for-profit and for-profit entities, provided the safeguards specified in paragraph 44 of the report are put into place;
55. Requests the Director-General to report to the Assembly at its third session, and thereafter on a biennial basis, on the implementation of its decision.