



منظمة الأغذية
والزراعة
للأمم المتحدة

联合国
粮食及
农业组织

Food
and
Agriculture
Organization
of
the
United
Nations

Organisation
des
Nations
Unies
pour
l'alimentation
et
l'agriculture

Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

FINANCE COMMITTEE

Hundred and Fifteenth Session

Rome, 25 - 29 September 2006

Access by Members to Reports of the Office of the Inspector-General

Executive Summary

This document is presented in response to the request made by the Committee at its 113th Session that the issue of potential future availability of internal audit reports to Members be examined.

The document seeks to place the matter in the context of the overall external and internal oversight framework of the Organization by providing general information on this dual framework. It presents the main features of General Assembly resolution 59/272 entitled “*Review of the implementation of General Assembly resolutions 48/218 B and 54/244*”, puts forward a few relevant considerations and possible options on the matter. In addition, it outlines several considerations regarding the proposed request in light of the existing reporting and accountability procedures applicable to Internal and External Audit.

The document establishes a distinction between general audit reports and specific investigation reports. While the possibility of releasing audit reports does not raise insurmountable legal and practical difficulties, the release of investigation reports to Member Nations does raise a few issues of a legal nature related to confidentiality, rights of due process or issues regarding the protection of officials of the Office of the Inspector-General. The document describes the criteria applied by the United Nations in respect of the release of reports and proposes that, should the Finance Committee be of the view that Members should have access to reports of the Office of the Inspector General, the matter be referred to the Committee on Constitutional and Legal Matters (CCLM) and that the views of both the Finance Committee and the CCLM be referred to the Council.

I. BACKGROUND

1. At its 113th Session, held from 8 to 12 May 2006, the Finance Committee discussed the “*2005 Annual Activity Report of the Office of the Inspector General*”. The issue of access to reports of the Office of the Inspector General was raised and the Committee requested a paper for the September 2006 session on potential future availability of such reports to Members, including reference to previous discussions on the matter.

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2. This document has been prepared in response to that request. It seeks to place the matter in the context of the general oversight framework of the Organization by providing information on this framework and putting forward a few relevant considerations. It also presents the main features of General Assembly resolution 59/272 entitled “*Review of the implementation of General Assembly resolutions 48/218 B and 54/244*”, on Member States’ access to reports of the Office of Internal Oversight Services (OIOS)¹. Should the Finance Committee be of the view that Members should have access to reports of the Office of the Inspector General, it is suggested that the matter be also referred to the Committee on Constitutional and Legal Matters (CCLM), insofar as the release of certain reports could raise issues of confidentiality, rights to due process of individuals or issues regarding the protection of officials of the Office the Inspector General.

II. GENERAL OVERSIGHT FRAMEWORK OF FAO

3. Over the years a comprehensive oversight system of the Organization has evolved, the key features of which are presented below.

4. The External Auditor is appointed by the Council of FAO, on the recommendation of the Finance Committee. The External Auditor is the Auditor-General, or person exercising equivalent functions, of a Member Nation. The External Auditor may not be removed during his tenure of office, except by the Council.

5. The External Auditor is required to express an opinion on the FAO accounts, covering both regular programme and extra-budgetary resources. The audit is conducted in accordance with generally accepted auditing standards and, subject to any special directions of the Finance Committee, in accordance with the Additional Terms of Reference set out in Annex I to the Financial Regulations. The External Auditor may make observations with respect to the financial procedures, the accounting system, the internal financial controls and, in general, the administration and management of the Organization (commonly referred to as “*value-for-money*” reviews). The External Auditor is completely independent and solely responsible for the conduct of the audit. However, the Finance Committee may request the External Auditor to perform certain specific examinations and issue separate reports on the results². The External Auditor is provided with such facilities as required for the performance of his functions.

6. The External Auditor is required to issue a report on the financial statements and relevant schedules, which includes such information as he deems necessary in regard to matters referred to in his Terms of Reference, including the administration and management of the Organization. The External Auditor’s reports are transmitted through the Finance Committee, together with the audited financial statements, to the Council in accordance with any directions given by the Finance Committee. The Council is required to examine the financial statements and the audit reports and to forward them to the Conference, with such comments as it deems advisable.

7. The Internal Audit function of the Organization is carried out by the Office of the Inspector General, who reports directly to the Director-General, but with a measure of autonomy and independence consistent with the nature of the functions performed, in accordance with the principles set out in the Charter of the Office of the Inspector General.

8. The audit work of the Office of the Inspector General is based on a work plan considered by the Audit Committee and agreed by the Director-General. No restrictions are placed upon the work of the Inspector General and she has complete independence, authority and discretion to examine all such matters and operations as deemed necessary and relevant in the particular

¹ UN General Assembly Resolutions do not apply, de iure, to Specialized Agencies. From a preliminary review, none of the Specialized Agencies have adopted a procedure similar to that established by the UN General Assembly.

² The Finance Committee has requested on a number of past occasions that the External Auditor should make special examinations on particular matters such as the lapse factor, the Working Capital Fund and specific projects financed by the World Bank.

circumstances, both at headquarters and at any field location. Selection of areas and activities to be examined is based on risk assessment, the organizational priorities and other critical factors. The Office carries out financial as well as value-for-money audits, covering a variety of subject matters, such as staffing and staff costs, procurement, cash management, payables and receivables, reporting, etc. The Office has qualified staff to discharge the audit function and the work is conducted in accordance with international auditing standards taking into account matters such as purpose and authority of the audit function, independence, proficiency and due professional care and quality assurance. The actual audit work is based on planning, clear understanding of scope and objectives, assessment of risk and internal controls, use of standard or specific audit programmes, and due dialogue with the client divisions. In addition, the Office of the Inspector General has a special group which handles investigations. A formal mechanism is in place for reporting on results of audits and investigations and following up on the subsequent actions taken based on report findings.

9. Audit and investigation reports are issued to Senior Management for action after completing each assignment. The External Auditor has access to all audit and investigation reports of the Office of the Inspector General and to the relative working papers. Cases of fraud are systematically reported to the External Auditor under the Financial Regulations. The External Auditor determines the scope of his audit after taking into account the plan of work and reports of the Office of the Inspector General. In addition, the External Auditor may draw from the reports of the Office of the Inspector General when he reports to the Governing Bodies. Both the management of the Organization and the Audit Committee (cf. paragraph 11 below) monitor the implementation of the recommendations made in the reports.

10. Since 1996, the Office's annual report to the Director-General on its activities is simultaneously issued to the Finance Committee, posted on the internet and thus made available to all interested parties. Furthermore, under the terms of the Charter, "*at the discretion of the Inspector General, any [individual audit or investigation] (...) report may (...) be submitted to the Finance Committee together with the Director-General's comments thereon and be made available to other interested member states*" (cf. paragraph 13 of the Charter of the Office of the Inspector General).

11. The Director-General has established an Audit Committee as an advisory panel to him and to the Office of the Inspector General. Its aim is to assist the Organization in gaining house-wide acceptance of the importance and value of the internal audit, inspection and investigation functions, and to provide the Director-General with assurance that these functions are operating effectively and efficiently³. The Committee consists of seven members: five internal and two external. It is placed under the chairmanship of the Deputy Director-General and includes the Assistant Director-General, Administration and Finance, the Legal Counsel, two Assistant Directors-General, and two external members. The Inspector General provides the secretariat of the Committee. The Committee meets three to four times a year. All reports of the Committee are addressed to the Director-General. The Director-General provides a copy of the annual report of the Audit Committee to the Finance Committee. The Committee has authority to obtain all necessary information and consult directly with the Inspector General and her staff, access all reports and working papers produced by her office, seek any information it requires from any staff member and require all staff members to cooperate with any request made by the Committee and obtain independent professional advice and secure the attendance of outside persons with relevant experience and expertise if considered necessary.

12. In addition, FAO has an Evaluation Service which systematically carries out in-depth reviews of projects and programmes, and with which the Office of the Inspector General

³ The Committee appraises the adequacy and effectiveness of the internal audit services and its strategies, priorities and workplans and suggests potential audit areas to address the Organization's risks, reviews progress in the implementation of the action plans of the Office of the Inspector General which have been agreed upon, and takes note of the reports of the External Auditor and monitors timely follow-up of his recommendations.

coordinates mainly in connection with the preparation of value for money reviews, in order to ensure complementarity and avoid duplication of effort.

13. Finally, completing the oversight regime, the Organization has engaged local audit firms - normally internationally reputed accounting firms or their associates - to carry out regular reviews at decentralized locations (FAO Offices and projects), in order to ensure the integrity of the financial transactions generated in these offices and to obtain the requisite audit assurance on the accounts. The local audit interventions are particularly useful as they provide the management with the needed assurance on the reliability of the accounts and act as an “*early warning*” mechanism in identifying problems and malpractices, and indeed act as a deterrent against malpractices. All reports issued by the local auditors are carefully reviewed by the Office of the Inspector General and the Finance Division, which allows corrective action to be taken in a timely manner.

III. PERTINENT CONSIDERATIONS

14. As demonstrated by the framework set forth above, the Organization has a comprehensive system of oversight of its functions and operations based, on the one hand, on the External Auditor and, on the other hand, on the Office of the Inspector General. This system reflects a balance between these two sets of functions, each having its own rationale and reporting lines. Thus, the External Auditor is fully independent and appointed by the Governing Bodies of the Organization, i.e. the Council in the case of FAO. The External Auditor is only accountable to the Council and to the Conference of the Organization. The External Auditor has large powers to carry out his functions and has access to the reports and working papers of the Office of the Inspector General. The External Auditor may also request from the Inspector General such additional information on any particular report as he deems fit.

15. The Office of the Inspector General is an internal structure of the Organization. Both the appointment and termination of the appointment of the Inspector General are made by the Director-General, after consultation with the Finance Committee. However, this function remains within the Organization and the Inspector General reports directly to the Director-General, as explicitly stated in the Charter of the Office of the Inspector General. The reports of the Office of the Inspector General are management tools intended to allow the executive head to take corrective action in presence of any issues that might impact ultimately upon the proper functioning of the Organization. It is indeed essential that the Director-General should have such a tool in order to be able to discharge his responsibilities and, therefore, be able to be fully accountable to the Governing Bodies. This complies with Financial Regulation 10.1 of FAO’s Basic Texts whereby “*the Director-General shall (...) maintain an (...) internal audit which shall provide an effective current examination and/or review of financial transactions (...)*”

16. The issue of sharing the reports of the Office of the Inspector General has been raised in past sessions of the Finance Committee. In these instances, members have expressed certain concerns, e.g. that it would seem desirable for the proper functioning of the Organization as a whole that the specific institutional lines of authority and reporting regarding the External Audit and Internal Audit functions be preserved and, in particular, that the distinction between these two functions should not be blurred. This could have a number of adverse consequences such as the involvement of the Governing Bodies in micro-management, an increasing perception of the Office of the Inspector General as an external function and, in extreme situations, a potential progressive erosion of the independence of the Governing Bodies when reviewing the reports of the External Auditor (who, in planning and performing his own work, takes into account the work of the Office of the Inspector General – See Para. 9) and, through that, a loss of effectiveness when exercising their supervisory authority vis-à-vis the Director-General. In summary,

overlapping between the internal and external audit perspectives may not necessarily be in the best interest of the Organization and the Governing Bodies⁴.

17. In this spirit, it may be of some interest to mention that Price Waterhouse Coopers has submitted recently to the High Level Committee on Management of the Executive Committee Board for Coordination a set of “*Draft Governance and Oversight Principles and Practices*” which emphasize the need to preserve the duality of External Audit and Internal Audit functions for an efficient overall oversight system.

18. In addition, while it did not make any specific recommendation on the issue at hand, the Joint Inspection Unit issued a few years ago a report entitled “*Enhancing governing oversight role: structure, working methods and practices on handling oversight reports*” (JIU/REP/2001/4) which reflects the above concerns. The report observed that internal oversight mechanisms are tools for the executive head in the management of each organization and since, accordingly, reports prepared by internal oversight mechanisms are to be addressed to the executive head, the issue of the access by Member States to the internal oversight reports is not supposed to arise as a matter of principle. However, the same report recalled that there had been an ongoing debate within the United Nations system on the issue of reporting by the internal oversight mechanisms to the legislative organs. The report also mentioned that the question of handling or reporting of individual oversight reports to Member States remained in controversy. The adoption of General Assembly resolution 59/272 entitled “*Review of the implementation of General Assembly resolutions 48/218 B and 54/244*” may have represented a critical step on the matter.

IV. RECENT DEVELOPMENTS AT THE UNITED NATIONS

19. On 23 December 2004, the General Assembly of the United Nations adopted resolution 59/272 entitled “*Review of the implementation of General Assembly resolutions 48/218 B and 54/244*”. The resolution decided to maintain the reporting procedures for the Office of Internal Oversight Services in accordance with its earlier resolutions and requested the Secretary-General to ensure that:

- “(a) *Annual reports submitted by the Office of Internal Oversight Services to the General Assembly contain the titles and brief summaries of all reports of the Office issued during the year;*
- (b) Semi-annual reports of the Office of International Oversight Services contain the titles and brief summaries of all other reports of the Office issued in the reporting period;*
- (c) Original versions of the reports of the Office of Internal Oversight Services not submitted to the General Assembly are, upon request, made available to any Member State”*

20. Through the resolution, the General Assembly, “(a)lso (decided) that when access to a report would be inappropriate for reasons of confidentiality or the risk of violating the due process rights of individuals involved in Office of Internal Oversight Services investigations, the report may be modified, or withheld in extraordinary circumstances, at the discretion of the Under-Secretary-General for Internal Oversight Services, who will provide reasons for this to the requesting party”. Given the importance of this resolution for the issue under discussion, it is reproduced in full in the appendix hereto.

21. The United Nations Office of Internal Oversight Services, Investigation Division, has developed criteria for withholding or modifying certain reports before providing them to Member States who request them. However, there are circumstances when the Office may modify or withhold such reports. Modifications may entail removing names and other terms which may reveal the identity of a complainant, witness or person to whom confidentiality has been promised or of the subject of an investigation who has been cleared of the allegations or against whom

⁴ While they were never reflected in reports of the Finance Committee, such concerns were occasionally voiced within the Committee when the issue of access to audit reports was raised.

disciplinary or administrative action is pending. In the same vein, reports may be withheld for a number of reasons, for example, when they cannot be modified sufficiently to protect the identity of the complainant or of any person to whom confidentiality has been promised or when the disclosure of the report may cause direct and serious harm to a person.

22. In mid-May 2006 the Special Assistant to the Under-Secretary-General for Internal Oversight Services informed the Inspector General of FAO that since the adoption of the resolution, in December 2004, his Office had received requests from 35 Member States for a total of 314 reports. Each of three Member States had requested in excess of 20 reports. The requests included investigation and audit reports. Under operative paragraph 2 of the resolution the Under-Secretary-General for Internal Oversight Services has discretion to decide not to release a report or to redact the report in order to protect confidentiality and this provision has been used extensively in respect of investigation reports. The process of modification of reports in accordance with the above criteria has placed a very heavy burden on the Office of Internal Oversight Services.

V. CONSIDERATION BY THE FINANCE COMMITTEE

23. In examining the desirability of making internal audit reports accessible to Member Nations, upon request, the Finance Committee may wish to take into account the existing framework for external and internal oversight functions at FAO and past consideration of the matter by the Finance Committee. In addition, the Committee may wish to keep in mind the observations outlined below.

24. A distinction – also made in paragraph 2 of Resolution 59/272 - may need to be made between audit and investigation reports. An audit is generally considered to be a systematic, independent and documented process aimed at obtaining objective information to establish the extent to which particular activities conform to accepted principles, criteria and rules governing those activities, including on efficiency matters. Therefore, these can be financial audits or audits dealing with the administration and the management of the Organization. Investigation reports are the result of investigations into allegations of unsatisfactory conduct and wrongdoing on the part of staff members or third parties.

25. As mentioned earlier, information received from the United Nations suggests that the implementation of resolution 59/272 is placing a considerable burden on the Office of Internal Oversight Services. In particular, as regards investigation reports, which concern necessarily specific individuals, access may be inappropriate for reasons of confidentiality or the risk of violating the due process rights of individuals involved. Under the circumstances the report may be modified or withheld in extraordinary circumstances, at the discretion of the Under-Secretary-General for Internal Oversight Services, who will provide the reasons for this to the requesting party.

26. The Finance Committee may wish to express its views on whether it is desirable that a procedure comparable to that followed at the United Nations be introduced in FAO. In this connection, the Committee may wish to advise on the desirability that any such procedure should retain an exceptional character, if only to avoid a situation where the modification of reports would place a heavy administrative burden upon the scarce resources of the Office of the Inspector General and other offices (e.g. the Legal Office and the Human Resources Management Division) and preserve the essence of the dual character of the oversight functions within the Organization.

27. Should the Finance Committee formulate a recommendation to the effect that a procedure similar to that applied at the United Nations be introduced in FAO, it is suggested that, in view of its implications, its practical implementation modalities be examined by the CCLM. In particular, the CCLM should make a detailed analysis of the conditions of release of investigation reports in light of the criteria and practice followed so far by the United Nations, and taking into account

additional information which may become available from other organizations of the system. Specific issues to be addressed would include, *inter alia*, the extent to which passages are to be withheld or modified, in the event of proceedings or complaints having been filed in connection with findings of a particular report. A consolidated proposal taking into account both the views of the Finance Committee, as well as those of the CCLM, could be referred to the Council.

VI. SUGGESTED ACTION BY THE COMMITTEE

28. The Finance Committee is invited to examine this document and offer such views thereon as appropriate.

Appendix

United Nations A/RES/59/272

General Assembly Distr.: General

2 February 2005

Fifty-ninth session

Agenda item 119

04-49258

Resolution adopted by the General Assembly*[on the report of the Fifth Committee (A/59/649)]***59/272. Review of the implementation of General Assembly resolutions 48/218 B and 54/244***The General Assembly,*

Recalling its resolutions 48/218 B of 29 July 1994 and 54/244 of 23 December 1999,

1. *Decides* to maintain the reporting procedures for the Office of Internal Oversight Services in full compliance with its resolutions 48/218 B and 54/244, and in this context requests the Secretary-General to ensure that:

(a) Annual reports submitted by the Office of Internal Oversight Services to the General Assembly contain the titles and brief summaries of all reports of the Office issued during the year;

(b) Semi-annual reports of the Office of Internal Oversight Services contain the titles and brief summaries of all other reports of the Office issued in the reporting period;

(c) Original versions of the reports of the Office of Internal Oversight Services not submitted to the General Assembly are, upon request, made available to any Member State;

2. *Also decides* that when access to a report would be inappropriate for reasons of confidentiality or the risk of violating the due process rights of individuals involved in Office of Internal Oversight Services investigations, the report may be modified, or withheld in extraordinary circumstances, at the

discretion of the Under-Secretary-General for Internal Oversight Services, who will provide reasons for this to the requesting party;

3. *Further decides* that reports of the Office of Internal Oversight Services shall be submitted directly to the General Assembly as submitted by the Office and that the comments of the Secretary-General may be submitted in a separate report;

4. *Affirms* its primary role in the consideration of and action taken on the reports submitted to it;

5. *Notes* that no mechanism has been established for the follow-up to Office of Internal Oversight Services recommendations, including those considered by the General Assembly;

6. *Emphasizes* the importance of establishing real, effective and efficient mechanisms for responsibility and accountability;

7. *Regrets* that despite previous information provided by the Secretary-General on the establishment of accountability mechanisms, including the accountability panel, such mechanisms are not in place, thereby affecting the efficient and effective functioning of the Organization;

8. *Takes note* of paragraph 129 (b) of the annual report of the Office of Internal Oversight Services,¹ and concurs with the view that a high-level follow-up mechanism under the authority of the Secretary-General should be established in the Organization to effectively feed findings and recommendations of the Office, as well as relevant findings of the Joint Inspection Unit and the Board of Auditors, into the executive management processes;

9. *Requests* the Secretary-General to submit annually to the General Assembly a report under the agenda item entitled "Review of the efficiency of the administrative and financial functioning of the United Nations" addressing the measures implemented with the aim of strengthening accountability in the Secretariat and the results achieved;

10. *Also requests* the Secretary-General to establish the aforementioned follow-up mechanism as soon as possible and to report to the General Assembly on the results achieved in the context of the report referred to in paragraph 9 above, with specific reference to:

(a) The composition of such a mechanism, including the seniority of the chair and members;

- (b) Terms of reference of the mechanism and frequency of its meetings;
- (c) The inclusion in the mechanism of one or more participants with relevant expertise from United Nations-system oversight bodies;
- (d) Reporting procedures;

11. *Reaffirms* the role of the Board of Auditors and the Joint Inspection Unit as external oversight bodies, and, in this regard, affirms that any external review, audit, inspection, monitoring, evaluation or investigation of the Office can be undertaken only by such bodies or those mandated to do so by the General Assembly;

12. *Also reaffirms* the importance of effective coordination, in the implementation of their respective mandates, between the Joint Inspection Unit, the Board of Auditors and the Office of Internal Oversight Services, in order to maximize the use of resources and share experiences, knowledge, best practices and lessons learned;

13. *Stresses* the vital importance of the evaluation function of the Office of Internal Oversight Services, and requests the Secretary-General to better reflect the objectives, expected accomplishments and performance indicators related to this function in future biennial programmes and budgetary submissions of the Office;

14. *Reaffirms* its oversight role as well as the role of the Fifth Committee in administrative and budgetary matters;

¹ See A/59/359.

A/RES/59/272

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15. *Notes* paragraph 129 (a) of the annual report of the Office of Internal Oversight Services, and in this context requests the Secretary-General to report to the General Assembly at its sixtieth session, taking into account the views of external oversight bodies, on how to guarantee the full operational independence of the Office within the context of its resolution 48/218 B;

16. *Decides* to evaluate and review at its sixty-fourth session the functions and reporting procedures of the Office of Internal Oversight Services and any other matter which it deems appropriate, and to that end to include in the provisional agenda of that session an item entitled “Review of the implementation of General Assembly resolutions 48/218 B, 54/244 and 59/272”.

76th plenary meeting

23 December 2004