

January 2011

	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	Продовольствен ная и сельскохозяйств енная организация Объединенных	Organización de las Naciones Unidas para la Agricultura y la Alimentación
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# COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

**Ninety-Second Session**

**Rome, 7-9 March 2011**

**Disclosure of Internal Audit Reports**

1. At its Ninety-first Session in September 2010, the Committee on Constitutional and Legal Matters (CCLM) requested that a policy on AUD report disclosure be referred to the CCLM at its Spring 2011 session and to the Finance Committee (FC). The policy could reflect, *inter alia*, previous work and inter-agency consultation<sup>1</sup>. The Council, at its Hundred and Fortieth Session in November and December 2010 noted that the CCLM would at this session examine issues related to proposed access by Members to reports of the Office of the Inspector-General<sup>2</sup>. The Finance Committee, at its Hundred and Thirty-fifth Session in October 2010 looked forward to reviewing a proposed policy at its next regular session in March 2011<sup>3</sup>.

## I. CURRENT AUD REPORT DISCLOSURE

2. At this time, the only AUD report which is made available to member states or others is the Annual Report of the Inspector General. It is made available, through the FAO public website, initially via the Council document pages and subsequently via the AUD web pages, in all the official languages.

3. In the absence of disclosure of individual AUD reports, the annual report provides not only a general synthesis of AUD work for the past year and information about developments in the office itself, but also a significant amount of information on the specific audits, investigations and other work completed by AUD. It lists the titles of, and briefly summarizes, all audit and investigation reports issued in the year. Summaries of investigations are worded to protect confidentiality and due process for the individual staff members and third parties concerned. The publishing of the report on the FAO

<sup>1</sup> CL 140/6, paragraph 45.

<sup>2</sup> CL 140/REP, paragraph 71.

<sup>3</sup> CL 140/21, paragraph 78.

website was cited by the Joint Inspection Unit, in its report on its 2010 review of Auditing in the UN System, as a best practice that promotes transparency and accountability.

## II. AUDIT AND INVESTIGATION REPORTS

4. AUD issues reports on the results of each audit carried out under its biennial risk-based work plan and synthesis reports for themes which have been subject to a number of audits. These are shared internally with relevant managers for information and, where relevant, action on agreed recommendations. AUD issues reports on the results of each investigation carried out, which management consider as a basis for initiating administrative actions against staff members, suppliers or other third parties engaged in FAO activities. These are treated as strictly confidential and have very restricted circulation within the Organization. AUD also issues reports on lessons learned with a view to improving controls to prevent the recurrence of problems identified in investigations, which are written to permit broader circulation to concerned managers.

## III. CURRENT PRACTICE IN THE UN SYSTEM

5. The application of international auditing standards in relation to disclosure of *internal audit* reports was reviewed in 2007 by the Representatives of Internal Audit Services of the UN, Multilateral Banks and Associated Organizations (RIAS). In a 2007 Position Paper presented to the UN High Level Committee on Management and the Chief Executives Board for Coordination (CEB), the RIAS members concluded that “the disclosure of internal audit reports by United Nations organizations to representatives of their Member States is not incompatible with the IIA standards”. There have not been any changes to the IIA standards since then that would warrant this conclusion being re-visited.

6. RIAS went on to conclude that “the policy on and modalities for such disclosure, however, should be consistent with legal, statutory or regulatory requirements and should be guided by specific criteria, restrictions and considerations reflecting the relevant risks. The disclosure of the report will have to at least respect the privacy requirements / laws applicable and data that are legally considered confidential or which would potentially breach a privacy requirement will have to be removed. The rules of disclosure must be agreed and known by all parties - in the case of United Nations organizations these include the Member States. This general guidance does not apply to the disclosure of reports which include results or opinions regarding law and regulatory violations and other legal issues”. In such cases stricter criteria are expected to apply to protect due process and the legal rights of all parties involved.

7. After considering the RIAS position paper, the CEB noted in its 2008 report that it had “considered issues related to the disclosure of information contained in internal audit reports of United Nations system organizations in the light of the expectation of the international community that the system should be as accountable and as transparent as possible. The Board stressed that it was important for any disclosure policy to incorporate adequate criteria to ensure that the human and legal rights of the staff were respected, especially in connection with information contained in internal audit reports that have to do with investigations. Board members also recognized that governing bodies should be able to adopt disclosure policies consistent with the need, for example, to preserve the confidentiality of industrial secrets or other highly sensitive information contained in internal audit reports. The Board, therefore, endorsed the adoption of disclosure policies, respecting the management prerogatives of executive heads and subject to conditions and criteria to be defined within the context of an organizational policy and which should not be applied retrospectively.”

8. Notwithstanding concerns about the potential for blurring the distinction between external and internal audit<sup>4</sup> and the impact on the effectiveness of the internal audit function<sup>5</sup>, almost all UN Funds and Programmes and a number of the Specialized Agencies have adopted policies permitting some form of access to internal audit reports to Member States.<sup>6</sup> In all cases they provide for redaction or withholding of reports under certain circumstances. Almost all policies provide for viewing of the reports only, rather than the distribution of copies as is the case with reports of UN-OIOS<sup>7</sup>.

9. With regard to *investigation* reports, the Uniform Guidelines for Investigations adopted by the Conference of International Investigators - the community of practice of investigators in the UN System and other multilateral organizations - requires that “the Investigative Office shall take reasonable measures to protect as confidential any non-public information associated with an investigation, including the identity of parties that are the subject of the investigation and of parties providing testimony or evidence. The manner in which all information is held and made available to parties within each Organization or parties outside of the Organization, including national authorities, is subject to the Organization’s rules, policies and procedures.”

10. The disclosure policy applying to UN-OIOS also covers final investigation reports. However available information indicates that none of the UN Funds and Programmes or Specialized Agencies currently permit access to individual investigation reports. Nor do they cover reports on advisory activities or preliminary reviews of matters not leading to investigations.

#### IV. PROPOSAL FOR AUD REPORT DISCLOSURE

11. The Secretariat recommends that a policy be adopted through an amendment to the Charter for the Office of the Inspector-General, section VI (Communication of Results) to add a section on report disclosure, to avoid a fragmentation of documentation of policy decisions concerning AUD. This amendment would be made in accordance with a decision by Council, after receiving the advice of the CCLM and FC in March 2011.

12. A proposed amendment, attached to this document:

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<sup>4</sup> This concern was elaborated in respect of FAO in FC115/4 (provided to the CCLM at its 91<sup>st</sup> session as CCLM 91/Inf.1).

<sup>5</sup> With regard to the approach adopted for UN-OIOS reports, the Independent Audit Advisory Committee (IAAC) had, in its 2009 annual report (A/64/288) paragraph 40, noted that “some programme managers state that they are now reluctant to consult OIOS for advice or proactively request reviews in areas of concern to them”.

<sup>6</sup> The 2006 Joint Inspection Unit (JIU) report on “Oversight Lacunae” (JIU/REP/2006/2) recommended disclosure of audit reports to interested member states on request. In its 2010 report on “The Audit Function in the United Nations System” (JIU/REP/2010/5, paragraph 88) the JIU noted that by late 2010 “At 60 per cent of the organizations, the disclosure policy has been approved by the legislative/governing bodies and implemented by the internal audit/oversight head. Such a policy should be incorporated in all internal audit charters.” Data maintained by the network of internal audit services of the UN System (UN-RIAS) as at September 2010 indicated that all except two Funds and Programmes had policies in place. Since then WFP has adopted a policy reducing this number to one. Five Specialized Agencies report that they permit some form of access to member states of individual reports, while eight report that they do not.

<sup>7</sup> The UN-OIOS disclosure policy is contained in UNGA59/272 and there is no requirements on member states concerning confidentiality of the reports. The 2010 JIU report cites the UNDP policy, which exemplifies the alternative approach to that in UNGA59/272, as a good practice. The IAAC, having noted feedback from some UN Programme managers and the prevailing practice elsewhere within and outside the UN System, advised the General Assembly “that it may be timely for it to give consideration to how such reports are made available in the light of their further dissemination on the Internet, once copies are provided to Member States.” The General Assembly deferred consideration of this to no later than its the 66<sup>th</sup> session (in 2011) under Resolution 64/263 (March 2010). This later resolution reaffirms UNGA 59/272 and earlier related resolutions, but recalls “that reports referred to in paragraph 1 (c) of its resolution 59/272 are, upon request, available only to Member States”.

- 1) confirms existing practice that the titles of all audits and investigations conducted during the year and brief summaries of results are included in the AUD annual report;
  - 2) provides that the annual report will also contain brief summaries of advisory and other work carried out by the Office;
  - 3) makes available to Permanent Representatives, for viewing, internal audit reports and reports of lessons learned from investigations in their original language;
  - 4) provides that such reports are made available upon written request within established timeframes;
  - 5) sets out the criteria under which reports may be redacted or, in extraordinary circumstances, withheld;
  - 6) applies to reports issued after Council approves the amendment.
13. In view of (a) the concerns for protecting the identity of staff members cooperating with investigations as well as staff members or third parties who are the subjects of investigations, taking into consideration confidentiality, safety and due process; (b) the likelihood that investigation reports will require heavy redaction to address these concerns; and (c) the prevailing practice within the UN System in this respect; the Secretariat recommends that individual investigation reports should not be made available.

## **V. SUGGESTED ACTION BY THE COMMITTEE**

14. The CCLM is invited to endorse the proposed amendments to the Charter of the Office of the Inspector General, Section VI, attached to this document<sup>8</sup>.

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<sup>8</sup> At its Ninety-first Session in September 2010, the CCLM requested that the set of "Draft Governance and Oversight Principles and Practices" prepared by Price Waterhouse Coopers for the High Level Committee on Management of the Chief Executives Board for Coordination and the position paper prepared by the Finance and Budget Network of the High Level Committee on Management, in consultation with the Heads of Internal Oversight of the organizations, the External Auditors and the Institute of Internal Auditors, be made available to the CCLM at its Session of Spring 2011 (cf. CL 140/6, paragraph 46). The Secretariat shall make available to the CCLM copies of such related documents as it was able to obtain.

## Appendix

### CHARTER FOR THE OFFICE OF THE INSPECTOR GENERAL

#### I. Mission

1. The Office of the Inspector General provides oversight of the programmes and operations of the Organization, through internal audit and investigation.
2. The Office of the Inspector General has responsibility for monitoring and evaluating the adequacy and effectiveness of the Organization's system of internal control, financial management and use of assets. The Office provides the Director-General and the functions and programmes audited with independent, objective assurance and consulting services designed to add value and improve the Organization's operations. It helps the Organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and internal governance processes.
3. The Office of the Inspector General has been vested with the authority to investigate allegations of irregularities in the programmes and operations of the Organization as defined under Paragraph 7 of this Charter. The Office informs the Director-General and Senior Management of lessons learned, and promotes policies and activities that enhance the integrity of FAO's operations.

#### II. Scope of the Work

4. The Office of the Inspector General and the unit dealing with evaluation, together, provide comprehensive internal oversight coverage of the Organization. The External Auditor, with whom the Office of the Inspector General cooperates, provides complementary external oversight.

#### A. AUDIT

5. The Office of the Inspector General determines whether the Organization's network of risk management, control and internal governance processes, as designed and represented by management, is adequate and functioning in a manner to ensure:
  - risks are appropriately identified and managed;
  - interaction with the various governance groups occurs as needed;
  - significant financial, managerial and operational information is accurate, reliable and timely;
  - employee actions comply with the legal and regulatory framework including applicable policies, standards and procedures - especially, with respect to the receipt, custody and disbursement of funds and other resources of the Organization and conformity with the appropriations or other financial provisions voted by the Conference;
  - the Organization acquires its resources economically, uses them efficiently, and protects them adequately;

- programmes, plans and objectives are achieved;
  - quality and continuous improvement are fostered in the Organization's control process; and
  - significant legislative or regulatory issues impacting the Organization are recognized and addressed properly.
6. Opportunities for improving management control, profitability, and the Organization's image may be identified during audits. They will be communicated to the appropriate level of management.

## **B. INVESTIGATION**

7. The investigation unit of the Office of the Inspector General:
- investigates allegations of violations of FAO's regulations, rules (including the Standards of Conduct for the International Civil Service) and administrative provisions related thereto, i.e., fraud and unsatisfactory conduct by staff, as well as fraudulent and corrupt activities by third parties involved in programmes and operations of the Organization, in a professional manner with impartiality and fairness and ensures that results are transmitted to the appropriate office;
  - reviews investigative findings to identify trends related to fraud and misconduct and weaknesses in the internal control environment;
  - promotes the implementation of mechanisms, practices, regulations and policies that encourage an ethical working environment, enhance the integrity of FAO's operations and prevent the recurrence of misconduct and fraudulent activity;
  - ensures that FAO staff and other relevant parties receive training that incorporates the lessons learned from investigative findings and encourages awareness of regulations and policies that promote integrity and prevent fraud and misconduct; and
  - coordinates with other international organizations to increase cooperation in combating fraud, and developing integrity programmes and strategies.
  - Please click here for the [GUIDELINES FOR INTERNAL ADMINISTRATIVE INVESTIGATIONS BY THE OFFICE OF THE INSPECTOR-GENERAL](#) issued in AC2011/04 on 9 February 2011

## **III. Authority**

8. The Office of the Inspector General shall have, in accordance with applicable practice standards, full, free and prompt access to all accounts, records, electronic data, property, personnel, operations and functions within the Organization and to the Audit Committee. Staff at all levels shall cooperate fully in making available any relevant material or information requested during the course of a review.
9. The Office of the Inspector General is authorized to communicate directly with all levels of staff and management in order to discharge its responsibilities. The Inspector General shall be advised of any breakdown of the Organization's financial control system.
10. The Office of the Inspector General shall allocate assigned resources, set frequencies, select subjects, determine scope of work and apply those techniques required to accomplish its objectives in accordance with a formal plan of work which has received the concurrence of the Director-General.
11. Staff of the Office of the Inspector General shall not have operational responsibilities for activities subject to audit by that Office. Specifically, they shall not:

- perform any operational duties for the Organization;
- initiate or approve transactions external to the Office of the Inspector General; or
- direct the activities of any staff member external to the Office of the Inspector General, except to the extent that such staff members have been appropriately assigned to auditing teams or to otherwise assist the Office of the Inspector General.

12. The Office of the Inspector General shall be available to receive complaints or information concerning the possible existence of fraud, waste, abuse of authority or other misconduct by FAO staff and non-staff personnel, as well as allegations of fraudulent activity by third parties participating in FAO activities and programmes. Complainants will be provided confidentiality and no reprisals shall be taken against staff members providing such information, unless it is determined that the information was provided with the knowledge that it was false or with the intent to misinform.

#### IV. Accountability and Independence

13. The Director-General shall appoint a technically and professionally qualified individual as Inspector General after consultation with the Finance Committee. Likewise, the Director-General shall consult with the Finance Committee before the termination of the incumbent of that Office.

14. To provide for the independence of the Office of the Inspector General, its staff report to the Inspector General, who reports directly to the Director-General.

15. At the discretion of the Inspector General, any audit report or any other issue may be submitted to the Finance Committee together with the Director-General's comments thereon and be made available to other interested member states.

#### V. Responsibility

16. The Inspector General has responsibility to:

- maintain an adequate professional audit and investigation staff with sufficient knowledge, skills and experience to meet the requirements of the Charter;
- develop a flexible biennial audit plan using appropriate risk-based methodology, including any risks or control concerns identified by management, and submit that plan to the Audit Committee for review and to the Director-General for concurrence;
- implement the biennial audit plan, and, as appropriate, carry out any special tasks or projects;
- establish a quality assurance programme by which the Inspector General assures the operation of internal auditing activities;
- perform consulting services, beyond internal audit's assurance services, to assist management in meeting its objectives. Examples may include process design and advisory services;
- issue periodic reports to the Audit Committee and Director-General summarizing results of audit and investigative activities;
- keep the Audit Committee informed of emerging trends and successful practices in internal auditing and investigations;
- provide a list of significant measurement goals and results to the Audit Committee;

- consider the scope of work of the external auditors, as appropriate, for the purpose of providing optimal audit coverage to the Organization at a reasonable overall cost;
- maintain secure mechanisms to allow individuals to submit confidential allegations of potential fraud and misconduct in FAO's programmes and operations;
- maintain the security and confidentiality of all information and documentary and physical evidence related to investigations;
- provide confidentiality of the identity of the individuals and any information that could lead to their identification where there is a reason to believe that individuals may be at risk, unless it is determined that the information was wilfully provided with the knowledge that it was false or with intent to misinform;
- investigate alleged reprisals taken against staff members who cooperate with investigations; and
- submit investigative findings to appropriate bodies for decision and disseminate lessons learnt.

## VI. Communication of results

### A. AUDIT

17. The Office of the Inspector General shall report the results of its audit work and make recommendations to management for action with a copy to the Director-General and the External Auditor. All audit reports shall be available to the Audit Committee.

18. The Director-General shall ensure that all recommendations from the Inspector General are responded to by the responsible functional unit and implemented as deemed appropriate.

### INVESTIGATION

19. The Office of the Inspector General shall report the results of its investigative work to the appropriate office as designated by the Director-General and make recommendations to management for action.

20. The Office of the Inspector General shall report annually to the Director General and to the Audit Committee on the status of the organizational response to the results of investigative work.

### C. ANNUAL REPORTING

21. The Inspector General shall submit a summary report annually to the Director-General with a copy to the External Auditor on the activities of the Office of the Inspector General, including the orientation and scope of such activities as well as comments on the implementation status of recommendations. This report shall be simultaneously submitted to the Finance Committee together with any further comments deemed necessary and be made available to other interested member states.

### D. REPORT DISCLOSURE

22. The Inspector General's annual report shall be a publicly available document in all official languages of the Organization and will be posted on the Organization's website in accordance with its disclosure policies for documents of the Council and its Committees. This will include posting on the Office of the Inspector General's webpage in the Organization's website.

23. The Inspector General will make AUD's individual audit reports and reports of lessons learned from investigations, once issued in final format, and in their original language of issue, available to Permanent Representatives accredited to the Organization upon request in writing for a specific report. The reports will be made available for reading at the Office of the Inspector General, without copies being made or taken away. This policy shall apply to reports issued on or after [*date at which Council approves policy*], 2011.

24. Permanent Representatives shall treat any individual audit report received under this policy as confidential. Requests for access shall confirm that access will be employed for internal purposes only.

25. Where disclosure of the contents of an audit or lessons learned report would be inappropriate for reasons of confidentiality, or where it could place in jeopardy the safety and security of any individual, or run the risk of violating the due process rights of individuals, the report may be redacted or in extraordinary circumstances, the report may be withheld at the discretion of the Director-General acting on the advice of the Inspector General, who shall provide the reasons for such action to the requesting Permanent Representative.

26. Requests for access will normally be responded to, either by making the report available to the requesting Permanent Representative for viewing or advising that it must be withheld, within three weeks of receiving the written request. The requesting Permanent Representative will be advised as soon as possible by the Inspector General, but not later than three weeks of the request, if an extension of time is required to make the report available. The period will be extended where the internal audit or lessons learned report in question contains findings related to a specific State. In such cases, the Inspector General shall notify the Permanent Representative of that State within two weeks of receiving a request for the report. The Inspector General shall make available, under the same conditions in paragraph 23 and subject to any redactions made in accordance with paragraph 25, a copy of the internal audit report to the Permanent Representative of that State for viewing during a period of two weeks after the date of notification. If that Permanent Representative wishes to provide written comments to the Inspector General on the report within this two week period, those comments will be made available, along with the report and any further comments which the Inspector General has made, to the requesting Permanent Representative within a further two week period.

27. The Inspector General shall include in his/her annual report information on the implementation of the report disclosures made in accordance with paragraph 23 above including, *inter alia*: the number of requests to make reports available; the outcomes of those requests; and confirmation of requestors to adherence to the principle of confidentiality for the information disclosed in accordance with paragraph 24 above.

28. Cases of redaction or withholding of reports will be reviewed on an ex post basis by the Audit Committee at each of their meetings and their conclusions will be included in their annual report.

## VII. Practice Standards

29. The Office of the Inspector General shall meet or exceed the standards for the professional practice of internal auditing (including the Code of Ethics) adopted by the Audit and Oversight Services of the United Nations and Specialized Agencies.

30. Investigations shall be conducted in accordance with the applicable FAO regulations, rules, and other administrative provisions, as well as the internationally accepted Guidelines for Investigations endorsed by the investigative offices of international organizations and multilateral financial institutions.