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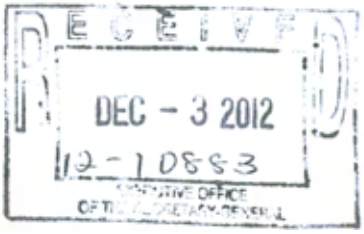

United Nations Nations Unies

INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

TO: Heads of Departments, Offices and Missions
A: (See distribution list)

date: 1 December 2012

reference: OMB-12-00202

FROM: John Barkat, Assistant Secretary-General and UN Ombudsman
DE: Office of the United Nations Ombudsman and Mediation Services

SUBJECT: **Report of the Secretary-General on the activities of the Office of the United Nations**
OBJET: **Ombudsman and Mediation Services**

1. I am writing to draw your attention to the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services that was issued on 2 October 2012 (A/67/172).

2. The Office was created to assist managers and staff in resolving workplace concerns informally and in achieving mutually acceptable outcomes. The Office operates on the principles of confidentiality, informality and impartiality. It is independent from any other office in the Organization and has direct access to the Secretary-General.

3. From 1 January to 31 December 2011, the Office dealt with 1,588 cases brought forward by staff of the Secretariat; of those cases, 84 per cent originated in offices away from Headquarters and in the field. The main concerns as brought forward by staff and managers were "job and career", "evaluative relationships" and "compensation and benefits", in this order. The report also contains a section on main systemic issues observed and on conflict competence building measures.

4. I take this opportunity to reiterate my gratitude for your personal support of the informal system. In our experience, early intervention in conflict situations at the workplace significantly increases the effectiveness of informal conflict resolution approaches and contributes to a productive workplace. We remain available to assist you in addressing any issues that may arise in your areas.

5. A list of the services provided by the Office is annexed to the present memorandum.

Attachment

HRM/04/003; HRM/22/001

United Nations A/67/172

General Assembly

Distr.: General
24 July 2012

Original: English

Sixty-seventh session
Item 141 of the provisional agenda*
Administration of justice at the United Nations

Activities of the Office of the United Nations Ombudsman and Mediation Services

Report of the Secretary-General

Summary

The General Assembly, in its resolution 66/237, recognized that the informal system of administration of justice is an efficient and effective option for staff who seek redress for grievances. The Assembly also emphasized that all possible use should be made of the informal system in order to avoid unnecessary litigation and requested the Secretary-General to recommend additional measures to encourage recourse to informal resolution of disputes.

The present report is the fourth covering the activities of the Office of the United Nations Ombudsman and Mediation Services, which delivers informal conflict resolution services to: staff of the Secretariat; staff of the funds and programmes (the United Nations Development Programme, the United Nations Population Fund, the United Nations Children's Fund, the United Nations Office for Project Services and the United Nations Entity for Gender Equality and the Empowerment of Women); and the staff of the Office of the United Nations High Commissioner for Refugees.

The report contains info mation on the activities of the Office between 1 January and 31 December 2011, including an overview of the types of services offered in informal conflict resolution and its benefits, the root causes of conflict as identified through a survey of the individual cases brought to the Office, and outreach activities.

The Office appreciates the continued support of the General Assembly for informal conflict resolution as a key first step in addressing workplace disputes at Headquarters and in the field. The Office of the United Nations Ombudsman and Mediation Services also acknowledges the backing given by the Assembly to the swift, system-wide implementation of measures aimed at improving the ability of staff members at all levels to prevent and manage work-related conflict, thereby contributing to an Organization better equipped to address situations of conflict.

* A/67/150.

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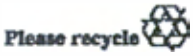

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I. Informal conflict resolution and core principles

1. As the informal pillar of the conflict resolution system of the Organization, the Office of the United Nations Ombudsman and Mediation Services uses informal and collaborative approaches to facilitate the resolution of workplace conflict at an early stage.

2. Conflict in the workplace affects everyone — staff, managers, colleagues, teams — and ultimately impacts on the ability of the Organization to deliver on its mandate. Unattended conflict can be costly to both individuals and the Organization. Addressing concerns quickly and comprehensively allows staff to return their focus to their core functions and also nurtures their trust in their employer. Investing in good conflict management means investing in the Organization.

3. The Office is guided in the conduct of its work by the core principles of independence, neutrality, confidentiality and informality, the essential elements of which are summarized below.

Independence

4. The Office maintains independence from other entities, organs and officials of the United Nations and has direct access to: the Secretary-General; the executive heads of funds and programmes; the Office of the United Nations High Commissioner for Refugees (UNHCR) and to senior management throughout the Organization, as needed; information relevant to cases except medical records; and individuals in the Organization for advice, information or opinions on specific matters.

Neutrality

5. The Office serves as an advocate for just, fair and equitably administered processes, takes into account the rights and obligations of both the Organization and the staff member, and does not act on behalf of any individual within the Organization.

Confidentiality

6. The Office maintains strict confidentiality and does not disclose information about individual cases or visits from staff members; it cannot be compelled to give testimony by any United Nations organ or official.

Informality

7. Informality includes not keeping records for the United Nations or any other party; not conducting formal investigations or accepting legal notice on behalf of the United Nations; not having decision-making powers; and not making determinative findings or judgements.

II. Overview of the work of the Office of the United Nations Ombudsman and Mediation Services

A. Organization of the Office

8. The Office of the United Nations Ombudsman and Mediation Services provides conflict resolution services to its three main constituencies: (a) staff of the United Nations Secretariat, including those in field operations; (b) the staff of UNHCR; and (c) the staff of the funds and programmes (the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF), the United Nations Office for Project Services (UNOPS) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)). Each constituency is served by dedicated ombudsmen as established and administered by their respective entities.

9. In accordance with paragraph 19 of General Assembly resolution 66/237, the United Nations Ombudsman shall be responsible for the oversight of the entire Office and enhance the coordination among the three pillars of the Office, which shall be reflected in the revised terms of reference promulgated by the Secretary-General. The terms of reference for the Office have been undergoing final revision, on the basis of consultation. The consultative process has consisted of input from external experts, staff and management groups and the substantive department. There has been extensive consultation between the Secretariat, the funds and programmes and UNHCR and the matter has been referred to the Secretary-General for his input and review.

10. The Office is headquartered in New York and has seven regional branches located in Bangkok; Entebbe, Uganda; Geneva; Kinshasa; Nairobi; Santiago; and Vienna. Each branch is headed by a regional ombudsman. The ombudsmen for the funds and programmes provide services to their constituencies from New York, while the ombudsperson for UNHCR is based in Geneva.

11. The current report covers the activities of the Office of the United Nations Ombudsman and Mediation Services in cross-cutting areas, including the overview of case data collection, joint outreach and informational product development and dissemination across the Secretariat, the funds and programmes and UNHCR. The report focuses on providing an overview of the activities of the Office relating to the Secretariat. The ombudsmen for the funds and programmes and for UNHCR provide an annual report detailing their specific activities and offering recommendations to the management and staff of their constituencies.

B. Joint activities

12. Joint activities by the three pillars of the Office during the reporting period included the continuation of established meetings to exchange information on operational issues and to engage on issues related to practice and the handling of cases. Collaboration also continued on the use of a joint database for the harmonized categorization of case-specific issues and to enable comparisons of case data from each pillar. Harmonization of practice and the application of the core principles that guide the informal process is an important aspect of the integration of the Office.

13. In the area of outreach and advocacy for informal conflict resolution across the United Nations system, collaboration continued on a number of ventures such as the joint website, which offers a common gateway to information about the informal system for all staff covered by the Office. A number of joint outreach products were developed describing the services offered by the Office.

C. Number of cases, types of services and trends

14. The Office focused on three main areas in the delivery of its mandate: (a) addressing work-related concerns brought forward by individual staff or groups; (b) analysing the root causes of conflict to identify systemic issues for positive organizational change; and (c) raising awareness of the benefits of collaborative approaches in the workplace and building the capacity of staff to handle and to prevent workplace conflict effectively. The services were used primarily by staff at locations away from Headquarters, including field operations (79 per cent), and international Professional staff, who constituted the largest group of users (48 per cent) across all pillars.

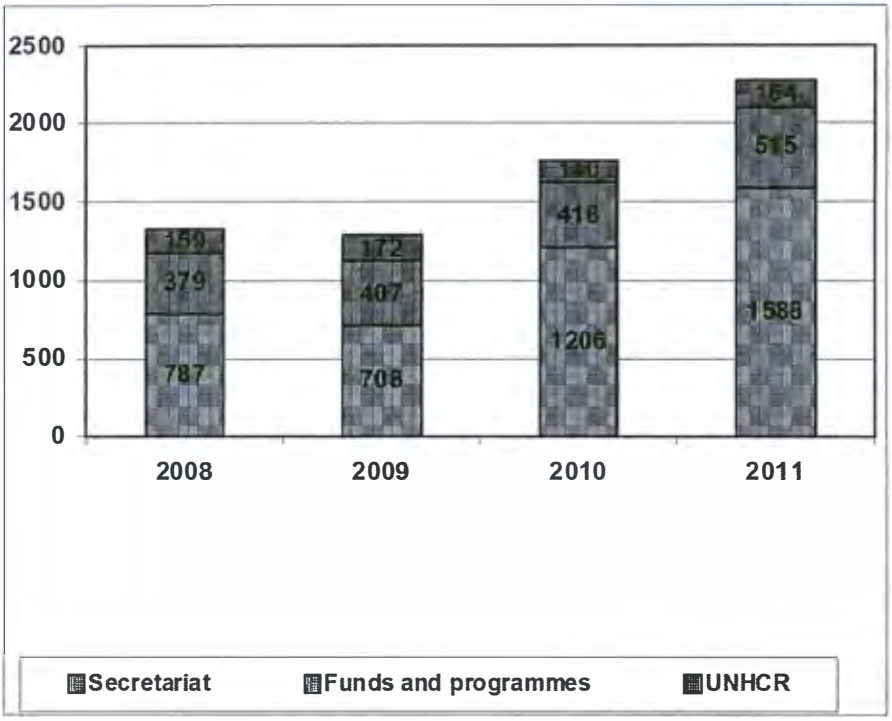
Overview and trends

15. During the reporting period, a total of 2,267 cases were brought to the Office, of which 1,588 came from staff of the United Nations Secretariat, 515 from staff of the funds and programmes and 164 from UNHCR staff. A case is made up of at least one workplace issue brought to the Office by a United Nations staff member seeking informal conflict resolution services. However, if a staff member approaches the Office with a simple query that does not require substantive work, the Office will not open a case file and the query will not be counted as a case.

16. Since the establishment of the new system of administration of justice in 2009, the combined number of cases brought to the attention of the Office increased from 1,287 in 2009 to 1,764 in 2010 and to 2,267 in 2011. This represents a 76 per cent increase between 2009 and 2011.[1]

[1] Detailed information on the activities of the Office of the Ombudsman for the Funds and Programmes can be found at www.jointombudsperson.org/reports.htm. Similarly, information on the activities of the Ombudsman for UNHCR, summarized in the present report, is available on the UNHCR intranet.

Figure I
Number of cases opened in the Office of the United Nations Ombudsman and Mediation Services, 2008-2011



17. During the reporting period, the overall utilization rate of staff (total number of staff of the Secretariat, staff and non-staff of the funds and programmes and UNHCR, estimated at 160,846 employees)[2] who made use of the services of the Office was almost 2.04 per cent.

Secretariat

18. Between 2009 and 2011, the number of visitors increased by 124 per cent. The regional branches opened a total of 1,130 cases in 2011, accounting for an increase in the overall number of cases. The utilization rate of Secretariat staff increased significantly, from 1.5 per cent in 2009 to 2.4 per cent in 2010 and to 3.2 per cent in 2011.

Funds and programmes

19. The Office of the Ombudsman for the Funds and Programmes dealt with a total of 515 cases in the period under review. This represents a 21 per cent increase from 2010 and a utilization rate of 1.61 per cent. A major factor contributing to the

[2] The estimate is based on information contained in documents A/66/347, A/65/350/Add.1 and A/62/294. The estimate includes respective populations served by the Secretariat, the funds and programmes and UNHCR. Non-staff accounted for 15 per cent of cases handled by the Ombudsman for the funds and programmes during the reporting period.

increase in cases was the outreach activities of the Office, which led to greater awareness of the services offered.

Office of the United Nations High Commissioner for Refugees

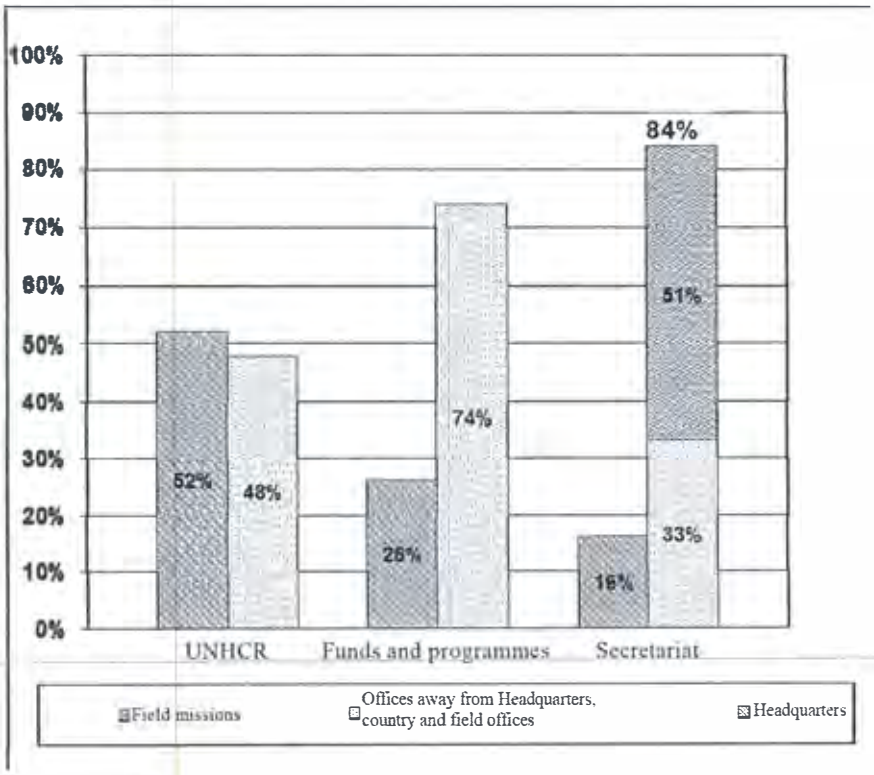
20. The Office of the Ombudsman for UNHCR received 164 visitors in 2011, representing a 17 per cent increase in absolute terms compared with 2010. However, since there was also an increase during the year in the overall number of staff and non-staff employees, notably in the field, the utilization rate remained stable at 1.7 per cent.

Distribution of cases in relation to location

21. For the Secretariat, office locations are at Headquarters, offices away from Headquarters and at field missions, which comprise peacekeeping and special political missions. For the funds and programmes, office are at headquarters and country offices. For UNHCR, offices are at headquarters in Geneva, the Budapest Global Service Centre in Hungary and at field offices.

22. In 2011, as in the previous two years, most of the visitors to the Office were located at offices away from Headquarters, country offices and field offices.

Figure II
Distribution of cases between Headquarters and the field, 2011



23. Overall, the percentage of cases from field missions increased from 24 per cent in 2009 to 34 per cent in 2010 and to 35 per cent in 2011. This was due to an increase in the proportion of Secretariat cases from field missions (43 per cent in 2009 compared with 49 per cent in 2010 and 51 per cent in 2011) and to the overall increase in the number of cases from the Secretariat, where approximately 60 per cent of staff are field-based. In contrast, the percentage of cases from Headquarters declined from 24 per cent in 2010 to 21 per cent in 2011 for the Office as a whole.

24. The Office of the Ombudsman for United Nations Funds and Programmes saw an increase in the number of cases at headquarters and at country office locations. A total of 132 cases were received at headquarters while 382 cases were received from country offices. The percentage of cases in country offices and at headquarters remains consistent and similar to that of previous years. The funds and programmes are field-based organizations, with 80 per cent of their staff employed in country offices.

25. In UNHCR, on the other hand, just over half of the visitors (52 per cent) came from headquarters locations and 48 per cent from offices in the field. This is a marked shift compared with 2010 when 38 per cent came from headquarters locations and 62 per cent from the field. In absolute figures, the shift is at least as, if not more, noteworthy, with 85 and 53 of visitors coming from headquarters locations and 79 and 86 visitors coming from offices in the field in 2011 and 2010, respectively.

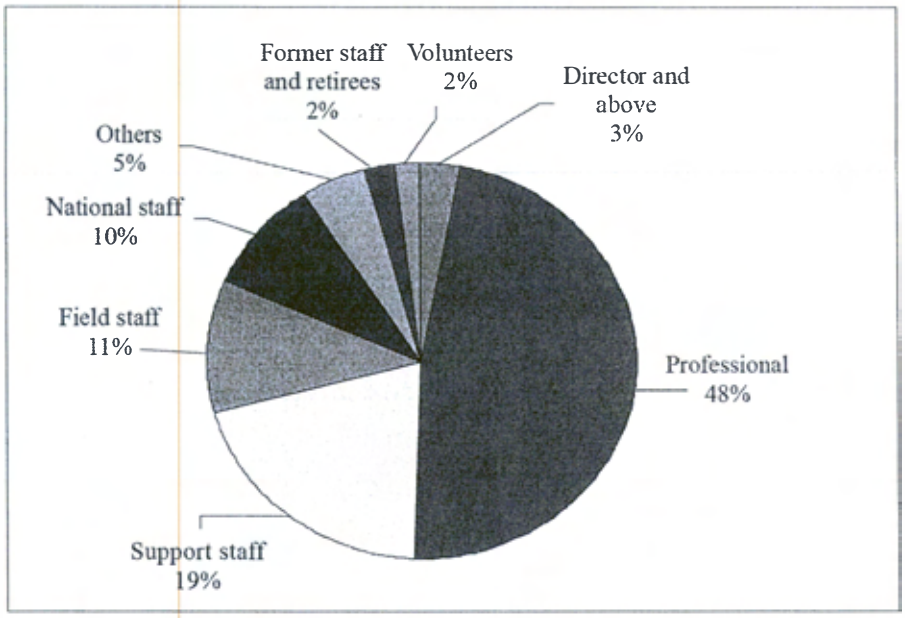
Occupational group of visitors

26. In 2011, as in preceding years, staff in the Professional category constituted the largest group of visitors in terms of occupational category. The portion of cases brought by staff in the Professional category increased from 44 per cent in 2010 to 48 per cent in 2011.

27. Staff in the General Service and related categories located at headquarters locations and in offices away from Headquarters represented the second-largest group of visitors, amounting to 19 per cent of the total. This figure remained stable between 2010 and 2011. Conversely, the number of cases originating from field staff increased, from 8 per cent in 2008 and 2009 to 11 per cent in 2010 and 2011. The percentage of national staff (whether in the Professional or General Service categories) did not follow any clear trend: it rose from approximately 7 per cent in 2008 and 2009 to 13 per cent in 2010 and fell to 10 per cent in 2011.

28. The percentages of visitors belonging to the remaining three occupational categories (former staff and retirees; volunteers; and Director and above) remained stable at approximately 2 to 3 per cent each. The portion of visitors belonging to the category "other" has remained between 5 and 6 per cent. Unlike the Ombudsmen for the Funds and Programmes and for UNHCR, the United Nations Ombudsman provides services to volunteers in conflict with regular staff members only on an exceptional basis.

Figure III
Percentage of visitors by occupational group, 2011



29. In the Secretariat, 46 per cent of the visitors belonged to the Professional category and 18 per cent to the General Service category. The Field Staff category is only applicable to the Secretariat and represented 14 per cent of the caseload.

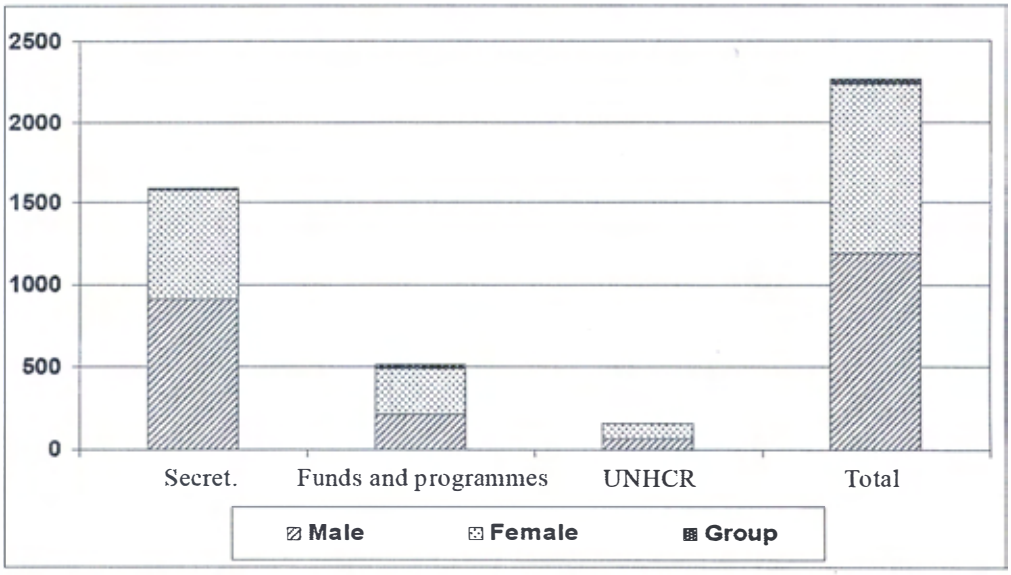
30. Of staff who visited the Office of the Ombudsman for United Nations Funds and Programmes, 61 per cent were in the Professional category and 22 per cent were General Service; United Nations Volunteers accounted for 3 per cent, former staff 4 per cent and group cases 3 per cent.

31. In UNHCR, 65 per cent of the visitors were in the Professional category, 32 per cent were General Service staff and the remaining 3 per cent were "others", including volunteers, compared with 67 per cent, 22 per cent and 11 per cent, respectively, in 2010. As at 2010, the Respectful Workplace Advisers network handled 91 visitors, all of whom were working in the field and most of whom were in the General Service category. The n mber of senior-level personnel (P-5 and above) contacting the UNHCR Office of the Ombudsman, either about their own concerns or about their concerns as managers, increased from 10 per cent in 2010 to 12 per cent in 2011.

Distribution by gender

32. Visitors are divided into three categories: male, female and group.

Figure IV
Profile of visitors from the Secretariat, the funds and programmes and the Office of the United Nations High Commissioner for Refugees, 2011



33. During the reporting period, the Office had 910 male visitors, 666 female visitors and 12 groups of visitors from the Secretariat.

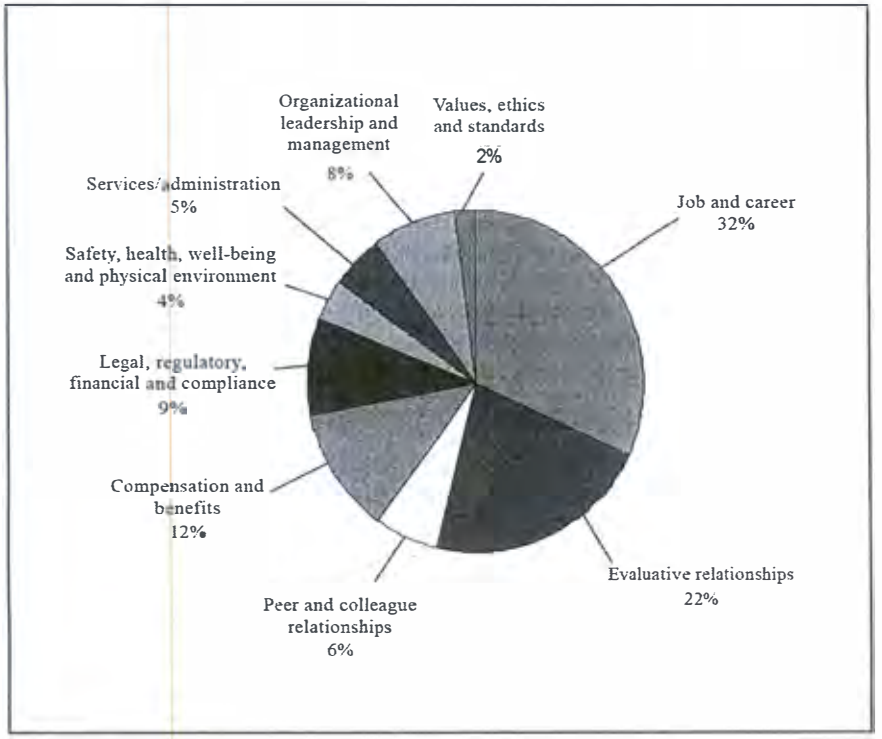
34. During the reporting period, the Office of the Ombudsman for United Nations Funds and Programmes received 4 per cent of its cases from groups, 54 per cent from females and 42 per cent from males. This represented a slight increase in female cases from 2010, when 50 per cent came from female staff members and 48 per cent from male staff members.

35. In UNHCR, the number of female visitors to the Office of the Ombudsman was, as previously, higher than that of male visitors (62 per cent of the visitors were women in 2011 compared with 66 per cent in 2010); a breakdown by headquarters and the field gives similar results.

Issue distribution

36. Over the last three years the distribution of the four main issue categories remained the same. Job and career stands as the most frequent type of issue despite a slight decline from 35 per cent in 2009 to 32 per cent in 2011. Evaluative relationships follows at 20 per cent to 23 per cent yearly. Compensation and benefits amounts to 12 per cent to 15 per cent of the total. Legal, regulatory, financial and compliance issues, which include alleged harassment and discrimination, vary from 8 per cent to 9 per cent.

Figure V
Distribution of issues across the Office of the United Nations Ombudsman and Mediation Services in 2011



37. In the Secretariat, the data indicate that the main issue category, job and career, declined between 2009 and 2011, from 44 per cent to 32 per cent. Similarly, compensation and benefits-related issues declined from 15 per cent to 13 per cent. Conversely, the percentage of evaluative relationships and peer and colleague issues increased from 15 per cent to 19 per cent and from 4 per cent to 6 per cent, respectively.

38. The rise in interpersonal issues involved in evaluative and peer relationships that are being referred to the Office for informal resolution, including mediation, may suggest that the outreach initiatives of the Office promoting the importance of conflict prevention in interpersonal relationships were successful.

39. Two main categories accounted for a large part of the issues brought to the attention of the Office of the Ombudsman for United Nations Funds and Programmes: (a) job and career (28 per cent); and (b) evaluative relationships (28 per cent). The latter category has risen over the years relative to all other categories. Evaluative relationships accounted for 21 per cent of cases in 2009 and 2010.

40. In 2011, 164 visitors to the UNHCR Office of the Ombudsman raised 295 issues. The main issues were related to job and career (41 per cent) and evaluative relationships (20 per cent), compared with 26 per cent each in 2010. Legal, regulatory, financial and compliance and peer and colleague relationships issues

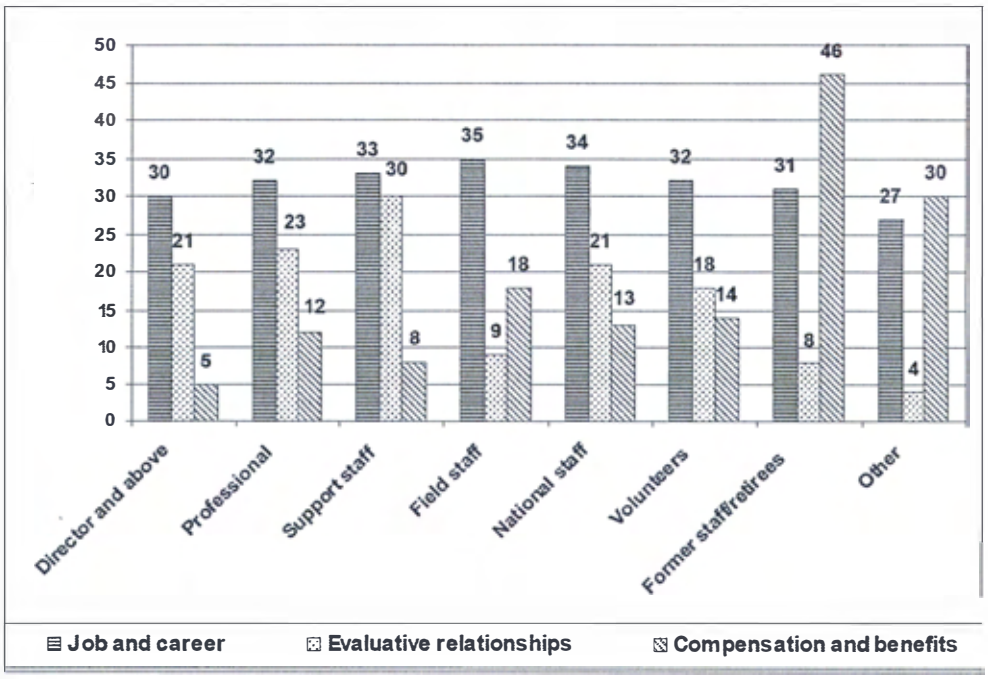
represent 8 per cent and 7 per cent, respectively. Issues brought to the UNHCR Respectful Workplace Advisers were mostly related to evaluative relationships, peer and colleague relationships, and job and career.

Issue distribution by occupational group of visitors

41. The distribution of the three main issue categories (job and career, evaluative relationships, and compensation and benefits) was similar for Directors and above, while Professionals, support staff, national staff and volunteers most frequently reported issues related to job and career, followed by evaluative relationships and, lastly, compensation and benefits.

42. Former staff members, retirees and "others" cited compensation and benefits as their most frequent concern, followed by job and career; evaluative relationships was not a frequently reported type of issue. Issues raised by retirees, former staff and individual contractors or consultants are often financial in nature and revolve around the amount and payment of benefits, final payments or fees. Former staff and non-staff employees appear to be less concerned with job and career issues.

Figure VI
Percentage of main types of issues by occupational group of visitors across the Office of the United Nations Ombudsman and Mediation Services in 2011



43. As many peacekeeping missions are downsizing and have complex entitlement situations, this issue distribution may reflect the specific problems of field service staff who have job security concerns.

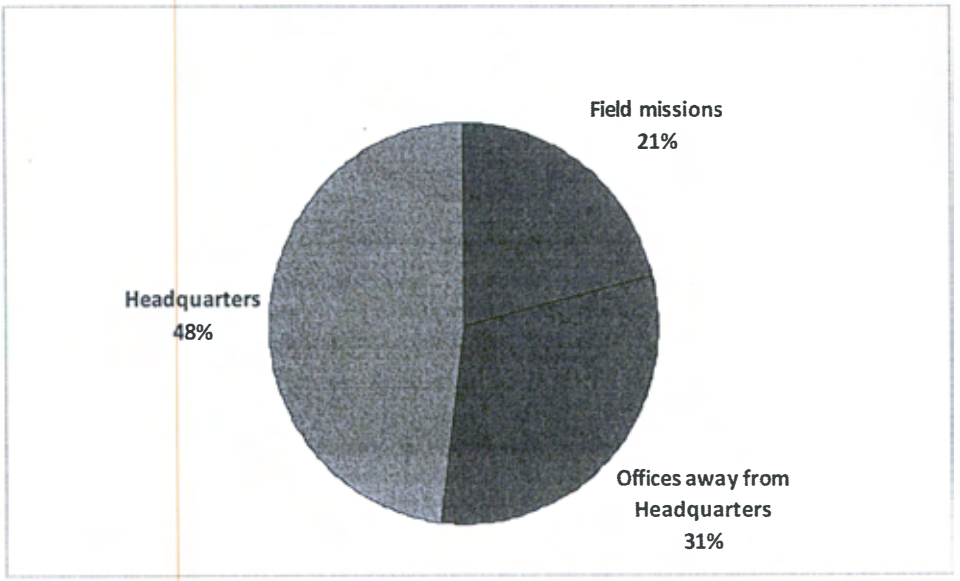
44. Since the establishment of the Office of the Ombudsman for United Nations Funds and Programmes, staff concerns pertaining to the performance appraisal

system have made up a significant part of evaluative relationship issues. The Office continued to deal with this type of case in 2011. During the reporting period, 36 per cent of the cases which the Office dealt with involved issues relating to respect and treatment in the workplace. Once again, the Office heard that from the perspective of staff, performance evaluation mechanisms are often used as an instrument to subject staff to harassment, belittlement and isolation. Job- and career-related issues were another main concern for employees in the funds and programmes: in this area, 26 per cent of the issues had to do with job application and recruitment processes. This represents a slight increase from 2010, when job application and recruitment processes accounted for 20 per cent of the cases.

Mediation data and trends

45. During 2011, the Mediation Service received 29 cases for mediation, all emanating from the Secretariat. This represents an increase of 69 per cent from 2010. Of the 29 cases, 48 per cent were received at Headquarters, 31 per cent at offices away from Headquarters and 21 per cent at field missions.

Figure VII
Mediation demographics, 1 January to 31 December 2011

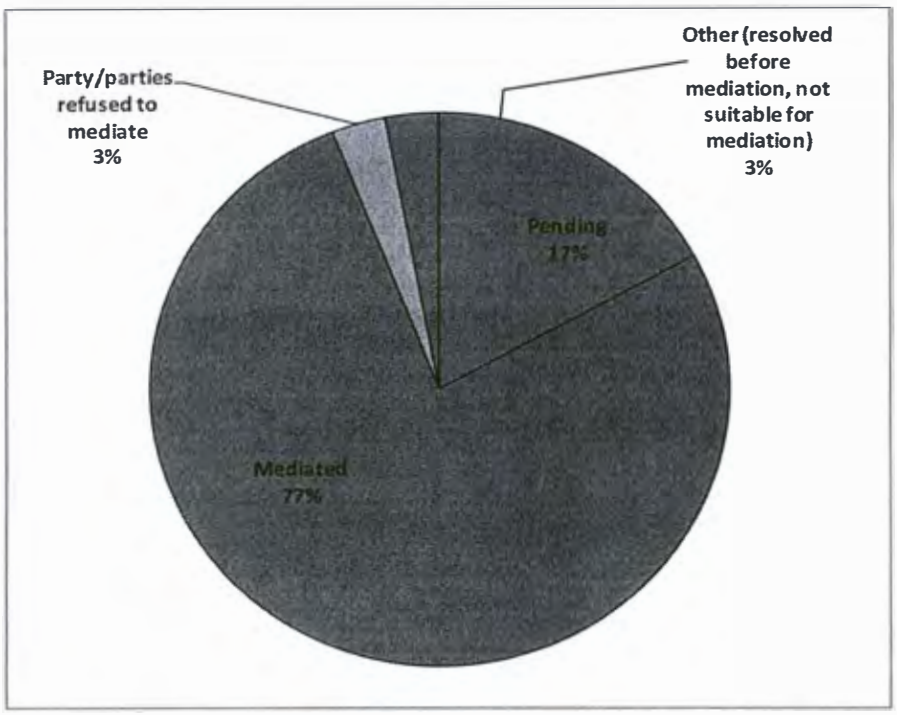


46. Mediation cases often involve several parties and require multiple sessions. Of the mediated cases, 82 per cent were successful. Judges of the United Nations Dispute Tribunal referred seven cases to the Mediation Service in 2011.[3] In instances where cases are referred to mediation during the later stages of the formal complaints process, the Office observed a lower success rate (around 50 per cent); this was most likely due to the fact that the issues had become more intractable and the parties had hardened their positions. Of note is that the number of cases resolved

[3] In some instances, a single mediation settled more than one case filed by the same party referred to mediation by the Dispute Tribunal.

in mediation without a financial provision increased by 50 per cent, from 10 in 2010 to 15 in 2011.

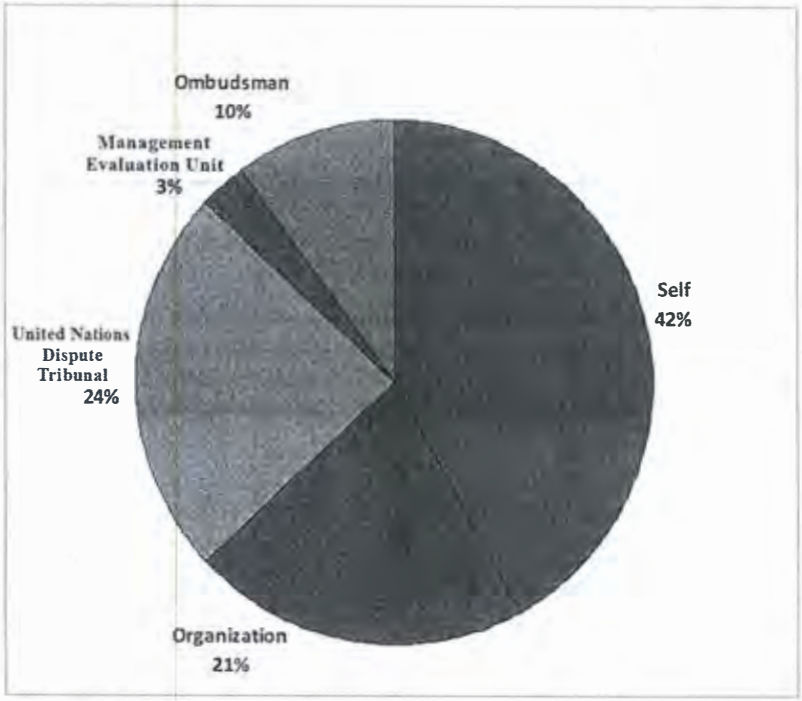
Figure VIII
Mediation cases, 1 January to 31 December 2011



47. Of the cases received for mediation, 77 per cent were mediated; in 3 per cent of the cases the parties refused to mediate and 3 per cent were found to be either unsuitable for mediation or were resolved prior to mediation.

48. Staff in the Professional category accounted for 62 per cent of the referrals, 24 per cent were referred by Directors and above, 7 per cent by General Service staff and 7 per cent by national staff. The major concern will be to ensure that staff of all categories have access to and feel comfortable using mediation. More men (55 per cent) than women (45 per cent) brought forward cases for mediation.

Figure IX
Mediation cases by source, 1 January to 31 December 2011



49. The growing trend is for the parties themselves to initiate the mediation process. Of the 29 cases referred to mediation, 42 per cent were self-referrals, 24 per cent were referred by the Dispute Tribunal, 21 per cent by the Organization, 10 per cent by the Office of the United Nations Ombudsman and 3 per cent by the Management Evaluation Unit. This trend is attributable to extensive outreach efforts on the part of the Mediation Service. These efforts included an increase in the number of presentations by the Office of the Ombudsman and Mediation Services staff at conflict resolution workshops, town hall meetings at the peacekeeping missions and miscellaneous workshops at Headquarters, as well as at offices away from Headquarters.

III. Informal conflict resolution services in the Secretariat: for a more harmonious and productive workplace

A. Operational issues

50. As noted above, the Office of the United Nations Ombudsman and Mediation Services continued to respond to requests for help in addressing workplace concerns from Secretariat staff at Headquarters in New York, as well as through its seven regional branches in: Bangkok; Entebbe, Uganda; Geneva; Kinshasa; Nairobi; Santiago; and Vienna; each of the branches is headed by a regional ombudsman.

51. Owing to the closure of the United Nations Mission in the Sudan (UNMIS), the regional ombudsman branch in Khartoum, which had been established to serve that mission, was relocated to the Regional Support Centre in Entebbe in November 2011. From that location, it provides services to the African Union-United Nations Hybrid Operation in Darfur (UNAMID), the United Nations Interim Security Force in Abyei, as well as the newly established United Nations Mission in South Sudan through regular contact and visits to those missions, utilizing the logistical support that Entebbe offers.

52. The relocation to Entebbe is under review for access and feasibility. As at the end of December 2011, staff of the regional branch in Uganda were establishing operations at the base in Entebbe. Logistical and administrative support to the Regional Branch in Entebbe was transferred from UNMIS to UNAMID.

53. The Mediation Service continued to provide the Organization with an informal, confidential and voluntary service to address and resolve workplace conflicts. The Service continued to consolidate its operations through the referral mechanism from the tribunals as well as through mission visits and the regional branches.

54. An external review panel recently conducted an evaluation of the Office and produced a preliminary report on its findings. In relation to the importance of confidentiality, two of its recommendations specifically noted that: (a) mediation settlement agreements should be kept confidential; and (b) the Office of the United Nations Ombudsman and Mediation Services database and the information therein should similarly be protected as confidential.

B. Overview of the use of services by staff and managers

55. In 2011, Secretariat staff continued to approach the informal system as a viable option for resolving their workplace problems.

56. A total of 1,588 cases were received from staff of the Secretariat in 2011. This represents a 31.6 per cent increase as compared with the number of cases received in 2010 and a utilization rate among Secretariat staff of about 3.2 per cent. This is in line with what other ombudsman offices experience in their organizations: research has shown that ombudsman programmes normally show a utilization rate of between 2 and 5 per cent. Similarly, ombudsman programmes that use formal means of contact such as help lines or other technical channels experience lower utilization rates than ombudsman programmes that provide in-person access to staff. This trend is borne out by the increase in the caseload since the establishment of the seven regional branches, which has enabled staff to have in-person access to informal conflict resolution resources. From this trend, it appears that the establishment of regional offices to offer in-person access for staff to solve issues informally is proving to be successful.

C. On-call mediators

57. The Mediation Service continued to utilize on-call mediators, who have proven to be an invaluable source of expertise. Mediation cases are often time- and labour-intensive, requiring full-time engagement with the parties.

58. The Mediation Service continued to work on a partnership project with the World Bank to create a roster of on-call international mediators to support the work of the regional ombudsmen who serve staff in Latin America and the Caribbean, Africa, the Middle East and North Africa, Europe and Central Asia, South Asia and East Asia and the Pacific. In October 2011, the Office, in partnership with the World Bank, conducted a five-day training workshop for the mediators considered for selection for the roster.

D. Scope of coverage

59. In the Secretariat, informal conflict resolution services are available to all staff serving at Headquarters duty stations and in the field. The majority of this eligible population is located away from Headquarters. These services are not available to non-staff personnel of the Secretariat, such as individual contractors and consultants. At the same time, and as in previous years, non-staff personnel of the Secretariat continued to approach the Office in 2011 and, where feasible, the Office provided limited services. Such contacts were normally not recorded by the Office and the instances of involvement declined due to the increased caseload emanating from the eligible population of staff.

60. The General Assembly, in paragraph 38 (b) of its resolution 66/237, requested an analysis of the policy and financial implications in the event that individual contractors and consultants covered by the proposed expedited arbitration procedures were to be permitted access to mediation under the informal system. The administrative and financial implications are reflected in the report of the Office of Administration of Justice.

E. Decentralized services: providing better access to staff globally

61. The General Assembly, in paragraph 12 of is resolution 66/237, stressed the importance of ensuring access for all staff members to the new system of administration of justice, regardless of their duty station.

62. In 2011, the Office of the United Nations Ombudsman conducted regular and ad hoc interventions (upon request) for staff and management of the following organizations, bodies and missions located at duty stations that do not have a resident ombudsman: United Nations Truce Supervision Organization (UNTSO); United Nations Assistance Mission in Iraq (UNAMI); United Nations Assistance Mission in Afghanistan (UNAMA); United Nations Stabilization Mission in Haiti (MINUSTAH); United Nations Environment Programme (UNEP) and the United Nations Office on Drugs and Crime offices in Panama; Economic and Social Commission for Western Asia (ESCWA); United Nations Interim Force in Lebanon (UNIFIL); United Nations Interim Administration Mission in Kosovo (UNMIK) (including the Belgrade Office); Economic Commission for Africa (ECA); United Nations Integrated Mission in Timor-Leste (UNMIT); Economic and Social Commission for Asia and the Pacific (ESCAP) sub-office in Incheon, Republic of Korea; International Criminal Tribunal for the Former Yugoslavia; United Nations Interregional Crime and Justice Research Institute; United Nations Logistics Base; United Nations Assistance to the Khmer Rouge Trials; the UNEP-administered Mediterranean Action Plan in Athens, secretariat of the United Nations Framework

Convention on Climate Change and other Bonn-based United Nations offices. In addition, the Kinshasa-based Regional Ombudsman regularly visited sub-offices while the Regional Ombudsman located in Khartoum regularly travelled to sub-offices as well as to UNAMID until the closure of UNMIS and the relocation of the regional branch to Entebbe.

63. Mission visits are planned by the Office in consultation with the mission management and related staff associations, or are requested by a mission or department in response to a particular workplace concern. They may also take place on an ad hoc basis to address concerns that may have wider ramifications on the operations of the mission. A mission visit usually lasts one week but in complex situations may last up to three weeks.

F. Activities of the regional branches

64. The establishment of the seven regional branches has enabled the Office to enhance its capacity to serve staff in the field. The regional ombudsmen facilitate conflict resolution by providing direct, in-person intervention through their presence at the major duty stations and through regional mission visits. A case is more likely to be resolved within the course of a mission visit by virtue of direct and immediate access by the ombudsman to the parties, compared to cases which require remote intervention by telephone or contact by e-mail. While the Office makes every effort to resolve cases and reach out to parties even remotely, the impact and efficacy of person-to-person contact and intervention cannot be overestimated.

65. One measure of the impact of the establishment of the regional offices is the increase in the number of cases received in the Office: a total of 1,588 cases in 2011 as compared with 1,200 cases in 2010.

66. Access to the staff in each region has been invaluable in fostering awareness of informal conflict resolution options and has encouraged and empowered staff to seek the assistance of the Office when facing workplace concerns. In addition, the regional ombudsmen continued to build on relationships with relevant stakeholders in the region and were thus able to intervene more meaningfully in cases and explore viable options for resolution.

67. Outreach and advocacy undertaken by the regional branches, customized to serve the needs of each region, has been critical to the conflict prevention work of the Office as managers and staff learn about ways to address and manage conflict. Regional branches have partnered with colleagues serving in the administration of justice, staff associations and the Office of Human Resources Management to provide information to staff at large and have interactive exchanges about conflict and options for informal and formal dispute resolution and their relative advantages and disadvantages. Throughout 2011, the regional ombudsmen continued to reach out to executive directors and chiefs, conduct town hall meetings and presentations for staff, hold panel discussions with key stakeholders and carry out field visits.

68. Visits to missions by the regional ombudsmen have strengthened the Office's outreach and advocacy efforts in the field, particularly in two special political missions that the Office had the opportunity to visit in 2011. As noted in the previous report on its activities (A/66/224), the Office recognized the need for special political missions such as UNAMA and UNAMI to have access to informal

conflict resolution resources. Staff and management from both missions welcomed the visit by Office staff, as demonstrated by their attendance at the town hall meetings and workshops held at the missions, as well as by the number and nature of the concerns brought forward.

69. As conveyed through feedback from staff, the availability and accessibility of ombudsmen in the regions combined with in-person visits to the missions have served to remind staff who serve in remote locations that they are an integral and valued part of the Organization. Staff and management are aware that a visit from the Office means that they have a conduit to Headquarters regarding workplace concerns, especially concerns of a systemic nature.

G. Effectiveness of informal conflict resolution and correlation between the informal system and other recourse mechanisms

70. The effectiveness of informal conflict resolution has been the subject of discourse in the field. Resolution is achieved when the parties to the conflict find a mutually acceptable solution to the issue. Often, in cases with multiple issues, some issues are resolved through informal mechanisms, thus reducing the number of issues which may proceed to a formal mechanism.

71. Early engagement with the informal system enhances communication and trust, which could result in fewer contested administrative decisions. Thus, informal conflict resolution works upstream as a prevention mechanism. Such cases can centre on concerns such as managerial practices or the deterioration of working relationships within teams, both of which, although not yet receivable by the formal system, cause considerable indirect costs to the organization. Such cost normally becomes evident in a lack of productivity, extended sick leave and high staff turnover.

72. The United Nations Secretariat offers a wide range of mechanisms to resolve work-related conflicts. The new strengthened formal pillar of the justice system provides staff with improved access to the formal system in order to address their grievances. In addition, staff, particularly in the field, resort to avenues provided by entities such as the Conduct and Discipline Unit because of their physical presence on the ground.

73. In many of the issues submitted for resolution through the formal channels, the root cause of conflict often has to do with procedural issues and perceptions of unfairness rather than with the administrative decision itself. In particular, the Management Evaluation Unit has noted that "inordinate delays" and lack of "transparency of the process" are often at the core of staff concerns. Such issues are a matter of managerial practice and an informal mechanism can be used to resolve them before they escalate and reach the formal stage.

74. It has been noted by staff, managers and other offices that address conflict situations that potential users of the system experience difficulties in identifying the appropriate venue for their respective concerns and often turn to more than one office for redress. The Office of the United Nations Ombudsman and Mediation Services puts emphasis on a thorough assessment in order to identify the appropriate avenues for a visitor's concerns. As necessary, the Office refers to the Ethics Office, the gender focal point or others in order to avoid duplication of services. The Office

has also conducted specific outreach measures to educate stakeholders on when to refer to the informal system. An effective referral system and clear information provided by the Organization could facilitate the more effective use of resources.

H. Update on incentives for informal conflict resolution

75. In his report to the sixty-fifth session of the General Assembly (A/65/303), the Secretary-General proposed that incentives be identified to encourage use of the informal system. Subsequently, in paragraph 16 of its resolution 66/237, the Assembly requested that the Secretary-General recommend to it, at its sixty-seventh session, additional measures to encourage recourse to informal resolution of disputes and to avoid unnecessary litigation.

76. As reported in paragraphs 31 to 37 of document A/66/224, implementation of those incentives has contributed to the increased use of ombudsman and mediation services by staff and managers.

77. In addition to the memorandum dated 17 January 2011 sent by the Under-Secretary-General for Management to all heads of department, other efforts have been made to raise awareness of the benefits of informal dispute resolution. These have included participation by the United Nations Ombudsman in meetings of the Management Performance Board and the Staff-Management Coordination Committee in May and June 2011, respectively. Outreach to newly appointed senior management in field missions through written communications and videoconferences are becoming established features of the Office's outreach strategy. Videoconferences were held with UNTSO, the United Nations Mission for the Referendum in Western Sahara, the United Nations Peacekeeping Force in Cyprus and the United Nations Office in Burundi.

78. Regular contributions to iSeek, the United Nations Secretariat intranet site, through a series of articles titled "Ask the Ombudsman", aimed to empower staff by building basic conflict competence skills for resolving conflict in everyday situations. At the regional and field levels, the submission of articles and contributions to local intranets and field mission newsletters was explored with a view to maintaining awareness of the informal system.

79. Promotion of conflict competence among United Nations staff is a key element in promoting positive work relations. In addition to the continued collaboration with the Office of Human Resources Management (see A/66/224, para. 35), the Office of the United Nations Ombudsman incorporated a conflict competence workshop element into its presentations in the field. Such workshops are precursors to the full training offered by the Office of Human Resources Management and were held at UNMIK, UNMIT, UNAMA, ESCAP, ESCWA and MINUSTAH. Participant feedback was positive, indicating staff interest in improving conflict competence skills generally.

80. Additional efforts are needed to implement the timely and rapid resolution of issues within 30 days. The Office is working with its stakeholders on the management side in order to encourage managers to encourage the informal resolution of cases and, in this context, is working with the Management Evaluation Unit to clarify the modalities for the suspension of formal deadlines in the case of an informal intervention through an ombudsman's office.

81. The Office notes that incentives to promote mediation have been helpful where parties designated to settle disputes have delegated/appropriate authority to fully settle the case and to respond to any subsequent issues that may arise in the execution of the agreement (A/65/303, para. 131).

82. While the utilization rate (see para. 17 above) of the informal system is illustrative of the average rate of usage of the system as compared with other systems, it has been noted that the number of formal complaints is high. This indicates that while there is a link between the formal and informal systems, there is no causal relationship. The Organization should assess the factors that lead staff to channel their complaints through the formal system. The Organization should also examine how improving managerial practices can have a positive impact, as noted in General Assembly resolution 66/237, as well as improving enhanced conflict competence and early conflict resolution to that end.

83. An additional positive impact could be achieved and efficiency gained by resolving conflicts at a very early stage of their development. Efforts by the management of the Organization to refer conflict to informal resolution at this stage will lead to quicker resolution than when the conflict is referred at a later, perhaps intractable, stage. Through its outreach campaigns, the Office has emphasized the importance of making the informal system a voluntary first step.

84. Following the request of the General Assembly in resolution 66/237, and having assessed the status of implementation of the incentives, the Office recommends continuing the implementation of the existing set of incentives for recourse to informal conflict resolution, the impact of which will be monitored in the years to come, and reverting to the Assembly as needed.

IV. Outreach activities: building partnerships for conflict competence and conflict prevention

A. Outreach activities to create awareness of the availability of the informal mechanism

85. In 2011, the website of the Office of the United Nations Ombudsman continued to be a main tool for reaching out to staff members in the Secretariat, informing them about the services provided and sharing resources on conflict resolution and informational material about the regional branches. Information about the Office's services was included on the intranets of UNMIT, ESCWA, UNIFIL and the United Nations Office on Drugs and Crime. Information on the work of the Office was also included on the "Accountability A to Z" page of the internal website of the Department of Management. The Office continued to cooperate with the Department of Peacekeeping Operations and the Department of Political Affairs. Regular updates on the informal system are posted on the revamped intranet of the Department of Peacekeeping Operations. Additional efforts have been made to reach out to special political missions, peacekeeping missions, economic commissions and offices away from Headquarters by distributing informational material about the Office of the United Nations Ombudsman and Mediation Services. The Office has also created a brief workshop called "Strategies for diffusing conflict: a guide for United Nations leaders".

86. The United Nations Ombudsman and his staff held regular meetings with staff representatives, conducted team interventions, and participated in joint town hall meetings and in induction programmes for newly recruited staff, as well as in the induction programme for senior officials in field operations.

B. Enhancing conflict competence

87. During a visit to UNAMI, the United Nations Ombudsman launched a series of conflict resolution workshops to build and enhance the ability of staff to handle conflict in the workplace effectively. Subsequent workshops were held at UNMIK, UNMIT, UNAMA, UNIFIL, ESCAP, ESCWA and MINUSTAH. The workshops focused on strategies to enhance teamwork, prevent conflict and promote collaboration in the workplace. Another workshop, "Overcoming the barriers to conflict resolution", was held in Istanbul, Turkey, led by one of the regional ombudsmen at a meeting of staff counsellors of the Secretariat, the funds and programmes and the specialized agencies. To maximize the impact of these sessions, the Office coordinated with the relevant training department and other stakeholders. The Office plans to further promote conflict competence and informal conflict resolution through workshops, particularly while reaching out to staff in the field.

88. To mark Conflict Resolution Day, in October 2011 the Office launched a series of educational articles for publication on iSeek to address issues dealing with everyday workplace conflict, such as "Giving and receiving feedback" and "Engaging in difficult conversations". The Office also revamped its induction programme for new staff members by including elements of basic conflict resolution. The Office has worked with the Office of Human Resources Management to provide training in negotiation and transformative mediation to staff members; it has also participated in various training sessions and provided comments on how and where adjustments could be made. The Office will continue to promote collaborative approaches to conflict resolution that empower staff to solve conflicts proactively and address conflict upstream by using collaborative rather than adversarial strategies.

C. Stakeholder engagement and building partnerships

1. General

89. During the reporting period, the United Nations Ombudsman continued to interact with key stakeholders, including through his participation in meetings of the Management Performance Board chaired by the Deputy Secretary-General as well as at the meeting of the Staff-Management Coordination Committee held in Belgrade in June 2011. Participation at senior-level meetings such as the Management Performance Board allows the United Nations Ombudsman to engage directly with senior managers at the strategic level to increase his understanding of the challenges they face and provide feedback on the systemic observations made by the Office on issues of concern to them. The United Nations Ombudsman continued to have direct access to the Secretary-General, Deputy Secretary-General and Chef de Cabinet to discuss further promoting conflict competence and informal resolution in the Organization. Meeting with staff representatives at headquarters duty stations

as well as at field missions is an integral part of the partnership activities of the Office.

2. Office of Human Resources Management: staff development

90. In the context of further enhancing conflict competence in the workplace, the United Nations Ombudsman and his staff continued to collaborate with the Office of Human Resources Management in its training activities related to mediation, negotiation and resolving conflict by participating in trainings as a resource on informal conflict resolution.

3. Office of Human Resources Management, Medical Services Division

91. Both the Medical Services Division and the United Nations Ombudsman have recognized the potential to strengthen the collaboration between the two entities beyond a common involvement in individual cases. Upon request, the Office of the Ombudsman and Mediation Services has begun to assist the Medical Service in reaching agreements with staff members on medical issues where positions have become entrenched.

92. Because of the interconnection between conflict and mental health issues, the Office has sought collaboration with the staff counsellor community. During the reporting period, a number of events further strengthened this collaboration, including a workshop on conflict resolution held in October 2011, with the Regional Ombudsman in Nairobi co-presenting, at the twelfth annual meeting of the United Nations Staff/Stress Counsellors Special Interest Group and a presentation by the United Nations Ombudsman at the annual meeting of the United Nations Medical Directors Working Group held in Brindisi, Italy, in October 2011.

93. The United Nations Ombudsman has supported the recommendations made by the United Nations Medical Directors Working Group for the adoption of an occupational safety and health policy. The Ombudsman seeks to expand the core premise of this policy — prevention rather than cure — to take into account the correlation between poorly managed conflict and the potential for adverse health consequences.

4. Department of Field Support, Field Personnel Division

94. During the reporting period, the United Nations Ombudsman and his staff have continued their regular interactions with another key stakeholder, the Field Personnel Division, in view of the large number of staff participating in missions. These interactions serve to discuss trends and systemic issues and include feedback from visits by ombudsmen to missions.

D. Outreach activities of the regional branches

95. In 2011, the regional ombudsmen built on the outreach efforts they had started in 2010, when many of the branches were established. They continued to strengthen their presence on the ground by giving briefings on the role and mandate of the Office, both to staff at large (for example, in town hall meetings) and to staff by department, subregional office and mission. They also continued to meet with high-level management and administration officials to discuss ways in which the Office

could help them address workplace conflicts more effectively and provide feedback about any systemic concerns brought to the attention of the ombudsmen.

96. Relations with critical partners such as the Management Evaluation Unit, the Office of Staff Legal Assistance, the Conduct and Discipline Unit, staff associations, medical personnel, human resources officials and staff counsellors were strengthened through regular meetings and joint training sessions. The Regional Ombudsman in Santiago, who reported having received cases from retired staff members, held regular meetings with the President of the Association of Former International Civil Servants. Additionally, the Regional Ombudsman in Vienna held meetings with the gender focal points and their alternates for the United Nations Office at Vienna and the United Nations Office on Drugs and Crime.

97. In addition to meeting with staff at the seven locations hosting branches of the Office, the regional ombudsmen and case officers made a point of reaching out to staff further afield. In 2011, they carried out visits to staff at the following missions: UNTSO, UNAMID, UNAMI, UNAMA, UNMIS, MINUSTAH, UNMIK and UNMIT. Visits were also made to staff of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) at the remote locations of Bunia, Kisangani, Lubumbashi and Kalemie.

98. Regional ombudsmen and case officers met with staff of the Economic Commission for Africa and the subregional office in the Republic of Korea of the Economic and Social Commission for Asia and the Pacific, as well as staff of the International Tribunal for the Former Yugoslavia and the United Nations Assistance to the Khmer Rouge Trials.

99. At the same time, they were routinely involved in briefing new staff of the Secretariat, missions and other United Nations entities, including the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), UNDP, UNEP and UNICEF, as part of induction programmes organized by local human resources personnel.

100. Several meetings were held with partners outside the United Nations, including with ombudsmen and mediators of the American Red Cross, the European ombudsman group of the United Nations and Related International Organizations and the Experts Group Wirtschaftsmediation, a network of 250 independent business mediators in Austria.

101. Significant efforts were made to reach out to staff through video- and teleconferences, and by distributing fact sheets and other informational material about the services provided by the Office and the regional ombudsmen. English, French and Spanish versions of the Office's poster were placed in strategic locations on United Nations premises.

V. Root causes of conflict: systemic issues

A. Issue identification and reporting

102. In paragraph 21 of its resolution 66/237, the General Assembly welcomed the recommendations made by the Office of the United Nations Ombudsman and Mediation Services to address systemic and cross-cutting issues. In its earlier

resolution 64/233, the Assembly emphasized the role of the Ombudsman as a vehicle for reporting on broad systemic issues in order to promote greater harmony in the workplace.

103. A systemic issue is characterized by the existence of the issue independent of the individuals involved in the conflict around that issue. It stems from deeper-rooted issues or gaps embedded in the Organization, such as are found in policy, procedures, practice, structure and the organizational culture.

104. The identification of issues by the Ombudsman is based on the almost 1,600 individual cases brought forward in 2011 in the Secretariat. It takes into account not only the issues as brought forward by those contacting the Ombudsman, but also the many interactions with the other parties involved. Continuous exchanges with senior managers, staff associations and other groups, as well as direct observation, also inform the identification of systemic issues. The Ombudsman has also compared his observations with those of other conflict resolution resource offices such as the Office for Staff Legal Assistance and the Management Evaluation Unit, and with the findings of both the Dispute Tribunal and the Appeals Tribunal.

105. Observations on all recurrent or systemic issues observed, not only those presented here, are shared and discussed with relevant stakeholders as appropriate, while safeguarding the confidentiality of individual visitors. The Ombudsman has also contributed observations to the consultation process on various policies.

106. Based on the above, the present report presents a selection of systemic issues observed in 2011 in the United Nations Secretariat which may engage more than a particular department or group of addressees; they are cross-cutting, linked and affect other parts of the system. Some of the issues were noted in previous reports, and it should be highlighted that efforts are continuing to address them. It is hoped that the observations of the Ombudsman will contribute to the ongoing efforts for continuous improvement.

B. Selected cross-cutting issues

107. This year's report focuses on performance management, the issue identified as being the most cross-cutting. It has repercussions across most issue categories and a high impact on individual staff as well as managers and the Organization at large. It is a responsibility shared by all, staff and managers as well as the Organization at large.

108. The report also addresses closing, downsizing and attendant retrenchment processes; provides an update on the issue of investigations, which has been identified by many stakeholders as a concern in organizational risk management; and provides an observation which may be relevant to the ongoing discussions on mobility.

Issue 1. Performance management system and performance appraisal

109. The creation and implementation of a fair, manageable and effective performance management system is a challenge for most organizations and corporations. The more complex, global and diverse an organization, the more daunting the challenge to provide a performance management system and an

appraisal tool that is understood the same way and applied consistently throughout the organization.

110. The effectiveness of this process is central to productivity as well as to the accountability of staff and managers. Approximately one in five issues (19 per cent) brought to the Office of the Ombudsman in 2011 overtly concerned the supervisor-supervisee relationship (the "evaluative relationship" category). Only the category "job and career" occurred more frequently (32 per cent), and this category consists of a much larger spectrum of subcategories, ranging from the recruitment and selection process to assignments and career development and termination or non-renewal of contract.

111. Many conflicts around selection, career progression and non-retention are expressions of prior gaps in performance management, but are not always identified as such. For example, there are cases concerning ratings or comments which do not reflect the true appraisal of the supervisors. This can raise false expectations on the part of staff regarding their career prospects and risks leading to later conflict, including complaints brought to both the informal and formal systems when hopes are frustrated. This issue would not appear to be a performance management concern or conflict, as the appraisals were designed to avoid such conflicts, but the way in which it surfaces later in other forms demonstrates that performance management is a truly cross-cutting issue.

112. Specifically, staff have expressed concerns about how they are managed and evaluated. They note a lack of adequate guidance and acknowledgement of their efforts, and seek to be more engaged in the performance management process. Often, they are surprised by what they perceive as an unjust or improperly justified evaluation at the end of the performance cycle. Some staff also claim that appraisals are used in an abusive manner. On the other hand, managers and mid-level supervisors who contacted the Office take their responsibility of ensuring performance seriously, but do not always feel equipped or supported to provide what they believe would be honest feedback and ratings. In their view, the risk of drawn-out rebuttal procedures, claims of harassment or litigation overrides the potential benefit of having a "difficult conversation" with the staff member.

113. Related observations regarding the aspect of different management styles and divergent expectations of each other on the part of supervisors and supervisees in a diverse, multicultural Organization were noted in the previous report (A/66/224, para. 68).

114. A further systemic issue with respect to performance management has emerged with regard to the rating of staff. The ratings "exceeds performance expectations" and "successfully meets performance expectations" were originally conceived as ratings on the basis of which a staff member could be retained, promoted, receive a salary increment and be considered as fully successful in the Organization. Since no negative consequences would normally attach to these ratings, the Organization did not provide for a formal recourse for either of them. Concern has arisen on the part of staff with fixed-term status who receive a rating of "successfully meets performance expectations"; some have said that they either feel underrated in comparison with their peers, or that their peers may have been unfairly overrated, placing them at an unfair disadvantage.

Performance management and retrenchment of staff in the case of downsizing

115. With organizational changes, including downsizing of missions and attendant retrenchment processes with the likelihood of finding a job in another mission decreasing, the meaning and impact of the difference between a good and a better rating have been changing. This issue, combined with the issue of across-the-board consistency and the observed tendencies to avoid difficult conversations and evaluations that could be challenged, have had an increasingly important impact on the Organization. Some managers, especially in the field, have reported that in retrenchment exercises they feel constrained to let go of good staff and retain staff who perform less well. They are concerned that the performance appraisal record of staff is given too much weight in deciding on retention of staff in an environment where this record may not be accurate enough for such a comparative exercise to be valid.

116. The individual staff members who come to the Ombudsman are concerned about the fairness of a comparative review as part of a retrenchment exercise; when they are let go, they see peers remain with the Organization without understanding why their own performance was appraised differently. The Ombudsman also sees visitors with excellent performance records who feel that they have been treated improperly or who suspect prejudice when they are not retained elsewhere in the Organization.

Performance management and leadership: role of second reporting officers

117. In cases involving supervisory relationships brought to the Office, the second reporting officer may have an important, but perhaps not fully recognized, role to play in resolving the situation. It is not so much that staff or supervisor (first reporting officer) requests the intervention of the second reporting officer or complains about him or her; rather, neither is aware of the guiding and supporting role the second reporting officer has in the performance management system. For example, a constantly recurring issue brought to the Office concerns inconsistencies between ratings and comments. Since satisfactory and better ratings cannot be challenged through a rebuttal process, and no recourse is available against comments alone, the staff member is left with an appraisal where a satisfactory rating may be tainted by more negative comments.

118. Rarely are the staff members who bring this concern to the informal system for resolution aware that their second reporting officer is mandated to ensure consistency between the comments and the overall ratings, nor do second reporting officers bring up such inconsistency.

119. Similarly, the role of the second reporting officer encompasses resolving disagreements between the staff member and the first reporting officer in the implementation of the performance management system, ensuring consistent and fair application across work units by all first reporting officers who report to him or her.

Performance management, interpersonal conflict and claims of harassment or abuse of authority

120. As reported in the previous report (A/66/224, paras. 69 and 83), difficulties in the interactions between supervisors and supervisees have led to complaints of

harassment and abuse of authority by some staff who saw no other way for their concerns to be addressed than to bring a complaint. Supervisors and managers have also come to the Office expressing concern about their ability to freely provide honest feedback and ratings to some of their staff out of concern that they would be falsely accused of harassment and abuse of authority. Others came to the Office after receiving such complaints against them.[4]

121. In revisiting the issue, which persisted in this reporting period, it was recognized that framing the issue as a conduct issue rather than a conflict around performance management had been an important element in the — perhaps unnecessary — escalation of the conflict. Conduct and Discipline Officers have noted that such misdirected complaints constitute a part of their workload and can rarely be effectively addressed as a conduct issue through the formal investigation and complaint mechanism for harassment and abuse of authority cases.

Performance management and risks to the Organization

122. Discrepancies between the true appraisal of managers and the record create difficulties for the staff concerned in understanding what and how to improve. Staff who feel underrated by comparison with their peers are demotivated. Moreover, such discrepancies pose a litigation risk when, based on performance appraisals, managers claim that they took the right decision but based on a wrong record, or they short-change the Organization when a wrong decision is technically correct because it is based on the record.

Ongoing efforts

123. The Office of the Ombudsman has engaged with the Office for Human Resources Management in an ongoing dialogue on a wide range of issues concerning performance management and appraisal. The series of articles by the Ombudsman on iSeek has devoted attention to giving and receiving feedback; his Office has engaged with the Staff Development Service and is providing input into courses, as requested and appropriate.

124. The Office of Human Resources Management has taken important steps to address these issues through continuous review and improvement, including making performance management training mandatory for supervisory officials.

125. Moreover, staff and management have reinvigorated the global monitoring process aimed at supporting fair and consistent performance management throughout the Secretariat; performance management is being addressed by a staff-management working group.

Opportunities

126. As the downsizing and retrenchment exercises show, performance appraisals increasingly have real impact and consequences on the contractual situation of individuals and, consequently, on the staffing of the Organization. This may be an opportunity to recognize the importance of meaningful compliance with the

[4] The issue here concerns cases which would have benefited from early and informal intervention, before they were mislabelled and, consequently, escalated to cases of alleged misconduct. These are distinct from actual harassment and abuse of authority cases, for which procedures exist and where informal resolution may be one, but not necessarily the best, option.

performance appraisal process as part of performance management, and to come to a shared understanding and appreciation of its value and impact.

127. Concrete next steps may include ensuring that all staff, not only supervisory officials, take advantage of the training opportunities and materials available to them. A common understanding of the meaning of the performance management process may lead to a more widely shared responsibility for it.

128. A further step may be a tailor-made course, online tutorials or materials for second reporting officers as managers of managers or supervisors, with a view to creating broader awareness of their critical role. Such training elements could be delivered as a stand-alone course or incorporated into existing and already mandatory management and leadership training.

129. This may also be an opportunity to review how many direct and indirect reports are realistically manageable, given the high expectations and responsibilities placed on managers.

130. The Organization may find it of value to analyse all complaints of harassment and abuse of authority filed within a certain period of time, with a view to identifying whether the cases reveal underlying issues of performance management.

131. Finally, where the above options are not deemed suitable or sufficient to address the challenges of a credible implementation, it may be useful to engage a broad dialogue on the reasons for this, with a view to identifying root causes which may not reveal themselves through a review of the cases brought to the Ombudsman alone.

Issue 2. Communication and expectation management in the closing or downsizing of missions

132. The importance of participatory processes to reduce conflict potential was highlighted in the previous report of the Office (A/66/224, para. 66, recommendation 2). In this respect, the Department of Field Support has engaged in efforts at all levels to support downsizing processes through policy and process guidance, with staff participation in comparative reviews for retrenchment exercises.

133. Nevertheless, finding effective ways of sustained communication with all affected mission personnel on the ground in the lead-up to and during the closing or downsizing phase of a mission remains an issue. Affected staff need not only information, but also two-way communication on what the changes would mean in their specific situation.

134. The closing or downsizing of a field mission poses particular challenges for both staff and management. It is a natural source of anxiety and stress for the affected individuals, often prompting them to contact the Office of the Ombudsman. The absence of communication during such critical changes gives rise to perceptions of unfair treatment, even when this may not be the case. Lack of communication increases stress, as it deprives staff of the opportunity to take charge, make informed decisions about their future and develop coping strategies for their specific situation. In the absence of factual information, rumours spread and create either false hopes or unnecessary anxiety. This provides fertile grounds for conflict.

135. Some senior managers have noted that critical information is often not available until very late in the process. This raises the issue of how best to manage the absence of specific information.

Opportunities

136. Sustained communication in the lead-up to and during a closing or a downsizing and retrenchment process may well be the greatest missed opportunity to prevent unnecessary tensions and conflict. In such cases, a coordinated series of relatively small interventions (town hall meetings, section meetings, briefings by the personnel section) could, at no additional cost to the Organization, have a significant impact on the prevention of conflict and on the productivity and well-being of staff during this phase of the mission.

137. Relevant information should be conveyed to staff as soon as possible, not only by means of circulars or the intranet, but in settings where genuine two-way communication and effective counselling are possible. Expectation management is critical in preparing staff members for the time when a mission's mandate ends. The earlier such questions are addressed, through ways that are understood by staff, the better for both the staff and the Organization.

138. Additionally, staff could be prepared for an eventual closing of the mission and advised about what to expect at that time at the stage of predeployment training. That would be an opportunity to manage expectations and provide critical information consistent across the board and in advance.

139. It may be important to develop standards and best practices regarding the management of the absence of critical information. Sometimes important elements regarding the future of a mission are simply not available early on. Often, managers mistakenly conclude that, in the absence of the information that they themselves are waiting for, there is nothing to communicate to staff. Experience with crisis management, however, has shown that explaining which pieces of information are outstanding, why they are not yet available and when they can be expected helps to defuse tensions and prevent rumours, as well as discourage perceptions that managers and supervisors are withholding critical information.

Issue 3. Investigations and disciplinary procedures

140. This issue has previously been raised by the Office of the Ombudsman (see A/64/314, paras. 72 and 73, A/65/303, para. 83, and A/66/224, paras. 82 and 83). Originally, the issue was brought up by individuals who claimed that their due process rights had been violated through lack of information, delays or other issues relating to the investigation and disciplinary proceedings and individuals concerned about their status in the Organization pending investigation and disciplinary proceedings. It has been reported to us again that staff who are being investigated are not always informed of such proceedings or are made aware of them only very late into the process. During the reporting period, concerns were also raised by both managers and staff, especially in missions, who felt that there was wrongdoing but that the Organization was not able to investigate swiftly and effectively sanction implicated staff. This contributed to the perception of a permissive environment and impunity.

141. At the same time, the Office has been following the Dispute Tribunal and the Appeals Tribunal cases relating to disciplinary matters and has observed the higher evidentiary and procedural requirements set by the Tribunals in terms of investigations and disciplinary procedures.

142. Difficulties in addressing reports of possible misconduct expeditiously and effectively, including observing the due process rights of all concerned, are ongoing challenges that need to be appropriately addressed in order to manage the Organization's risk related to this issue.

Ongoing efforts and opportunities

143. The Secretary-General took up this issue in his report on the administration of justice at the United Nations (A/66/275 and Corr.1) and the General Assembly took note of the proposals contained therein. Various departments and offices are working on them with a keen sense of urgency.

144. Staff and management have been addressing the issue jointly. The work on the revision of the policy governing disciplinary procedures continues. A pilot project, to be based in Nairobi, will test the feasibility of fast-tracking cases and will delegate authority to place staff on administrative leave with pay.

145. Efforts to build capacity in investigation at mission level are expected to be continued. Staff from peacekeeping and special political missions gathered recently in Entebbe for an intensive field investigations training programme. Comprised of four modules — incident response, investigation practice, investigating sexual exploitation and abuse and investigation interviewing — the programme was the result of extensive collaboration between the Department of Field Support, the Department of Peacekeeping Operations, the Department of Safety and Security and the Office of Internal Oversight Services. Participants, including officials from security investigation units, conduct and discipline teams and military contingents, discussed ways of working towards the common objective of greater accountability, building capacity for investigations and improving integration across functions in the Organization.

146. The departments functionally concerned with investigations and the disciplinary process, from recruiting for investigatory functions and designing and delivering training for serving staff to carrying out the investigation and ensuring quality control, are already coordinating their efforts at the working level. These separate efforts could be strengthened by increased synergies, perhaps supported by a high-level focal point to coordinate efforts and to give the issue the organizational priority necessary to manage the risks.

Issue 4. Prolonged assignments of staff in difficult duty stations

147. Staff posted in field missions continue to bring forward issues which, while different on the surface, all stem from prolonged assignments in extreme working environments that may include hardship, danger or other forms of exceptional circumstances such as lack of challenges and opportunities for growth or change (A/66/224, para. 65). From the Organization's perspective, an assignment period which contributes to the demoralization of good staff members may also be undesirable. The issue has persisted.

Opportunities

148. The current review of the selection system may be an opportunity for the Organization to consider placing time limits on the length of service at certain duty stations while at the same time effectively managing the expectations of staff.

VI. Challenges and future directions

A. Challenges

149. Despite the advances in the work of the Office of the United Nations Ombudsman and Mediation Services and progress in the utilization of informal conflict resolution mechanisms, there are still many impediments to optimal effectiveness of informal resolution in the United Nations system.

150. First, there is still, by and large, an orientation and an inclination towards formal grievance mechanisms within the United Nations system. The Office will continue to educate and promote the value and benefits of informal resolution; however, the Organization must also commit to readjusting the emphasis towards informal resolution.

151. Second, while the Office is able to work preventively to comply with the mandate from the General Assembly to provide in-person intervention to staff in the field, emergencies arise throughout the year requiring rapid response. Owing to limitations in staffing and resources, the ability to respond rapidly becomes challenging. The Office has explored the possibility of seeking support directly from the affected missions, but this often results in prolonged negotiations and delays in dispatching mediators or ombudsmen to the scene of the crisis.

152. In the year ahead, the Office will look at ways to seek structured support from other entities, such as special political missions, and begin to explore possibilities of extrabudgetary options as well. However, the Organization must also evaluate whether its resources are appropriately applied and whether there is an appropriate balance in terms of the investment in early "preventive diplomacy" (such as mediation and other informal resolution/settlement mechanisms).

153. Finally, the organizational culture is one in which there is a tendency to shift responsibility for the resolution of conflict upwards in the organizational hierarchy.

154. The Office continues to support accountability by the very nature of its work in informal resolution, which encourages direct engagement at the lowest possible level to attempt initially to resolve conflicts. It also uses methods which allow the affected individuals to communicate with the other parties to these conflicts personally or through facilitated dialogue, with the assistance of the Ombudsman or mediators, to reach resolutions of which they themselves can take ownership and which they alone have the freedom to accept or reject.

B. Future directions

155. The number of conflicts within the Organization can be reduced in one of two ways: as conflicts arise or before they take place. In terms of the resolution of existing conflicts, the Office of the United Nations Ombudsman and Mediation

Services has made great strides in developing its infrastructure of informal conflict resolution by fulfilling the mandate from the General Assembly to establish regional offices and to further develop its mediation capacity.

156. Looking ahead, there are now opportunities to enhance the Organization's capacity to prevent conflict from arising by exploring additional ways to further the use of collaboration and informal resolution in the United Nations system.

1. Conflict competence

157. The Organization regularly encourages staff and managers to hone and improve their competencies. However, in diverse and creative organizations, it is inevitable that the sparks of creativity may result in a few brush fires of conflict. The ability to manage such conflicts is increasingly recognized by organizations as a "competence" in its own right. The Office, by virtue of its core mandate to resolve conflicts informally, is positioned, in collaboration with other key stakeholders, to assist with promoting and sustaining a culture where staff and managers are "conflict competent".

158. Thus, in the coming years, the Office's outreach efforts will shift increasingly from describing to staff the nature of "what" an ombudsman and mediation office is, to a broader focus on promoting substantive skills in the area of conflict prevention and resolution. The Office will continue to seek ways to inform and educate its various constituencies on this critical area.

2. Collaboration and partnerships

159. Breaking down barriers opens up communication and can minimize bureaucratic obstacles. The Office is well positioned to help the Organization explore how to make the best use of collaborative strategies to ensure the success of both internal and external partnerships. This can include guidelines on structuring processes to allow for input, transparency and conversations on difficult topics, and establishing preventive measures which anticipate and guide parties through potential impasses. Thus, in the years ahead the Office will seek opportunities to assist the Organization to refine its collaborative strategies to achieve success in the various partnerships it pursues.

160. In this spirit, the Office will also itself continue to seek partnerships and synergies internally with key stakeholders. As part of these efforts it will continue to foster partnership initiatives such as those established in the past year with staff (collaboration with staff associations, meetings with staff representatives and attending the Staff-Management Coordinating Committee) and with management (meetings with the Management Performance Board and senior leaders). It will also continue its partnership with stakeholders such as counsellors, the Medical Services Division and members of the formal resolution systems related to the administration of justice.

161. Furthermore, the Office will also seek to explore external collaborations where learning can be exchanged and where synergies can advance substantive work. Past examples of this include a partnership on mediation with the World Bank and engagement with other professional networks.

162. The Office will continue to serve as a key resource for the Organization to help encourage such discourse and promote these values. Looking forward, the

Office will continue to encourage various entities and groups within the Organization to seek opportunities to collaborate and to engage on the topic of collaboration.

163. The year 2012 marks the tenth anniversary of the establishment of the United Nations Ombudsman and his Office, which has now become the Office of the United Nations Ombudsman and Mediation Services. In the wake of the reform efforts of the General Assembly, the Office has sought to develop high-volume processes that can operate in challenging, geographically decentralized and diverse settings. It has worked with other elements of the Organization to highlight systemic issues and encourage positive organizational improvement, and it is leading the way in promoting a more collaborative and accountable culture by encouraging conflict competence skills so that individuals can resolve their conflicts personally. Furthermore, given the scope and nature of the missions it serves, and an internal departmental culture that encourages risk-taking and creativity, the Office is able to begin expanding the boundaries of traditional practice in the hope of establishing new best practices through its own work.

164. Beyond 2012, while continuing to advance its work in the areas discussed in the present report, the Office will also seek to acknowledge the achievements of the last decade by promoting its work, both internally and externally. In so doing, it will continue to advance and encourage the use of informal conflict resolution.

Annex

List of services

Mission visits

Visits normally entail an educational component to enhance the conflict competence of staff so that they can better prevent and manage conflict; individual appointments with staff, including managers, to explore options for the informal resolution of workplace issues; and feedback to senior managers and heads of departments on issues observed during those visits.

Videoconferences can be arranged as a complement to visits or when visits are not possible. These normally focus on raising awareness about the services offered by the Office of the United Nations Ombudsman and Mediation Services (UNOMS) and on the value of seeking to resolve workplace disputes informally. The videoconferences can be conducted with small, targeted groups (e.g. composed only of senior managers) or involve staff-at-large (e.g. in town hall meetings). Videoconferences also offer opportunities for question-and-answer sessions.

Workshops to build conflict competence

Workshops are normally conducted by UNOMS representatives during visits. They focus on building the capacity of all staff, including mangers, to better handle difficult work-related situations.

Conflict resolution services

The following services are offered through one-on-one consultations, by telephone and in person:

- Evaluation of options, information and referral
- Facilitation of dialogue
- Shuttle diplomacy
- Team interventions
- Conflict coaching, including executive conflict coaching for senior leaders
- Mediation, including in cases referred by entities of the formal system of justice

Electronic and print materials

UNOMS produces awareness-raising posters, folders, factsheets and brochures, both in print and electronic formats, for widespread dissemination. Targeted materials could also be produced to reach specific groups of staff members and in specific languages of the United Nations.

To request informal conflict resolution services, contact UNOMS by phone, e-mail or secure contact form (see details at www.un.org/ombudsman).