

WIPO Coordination Committee

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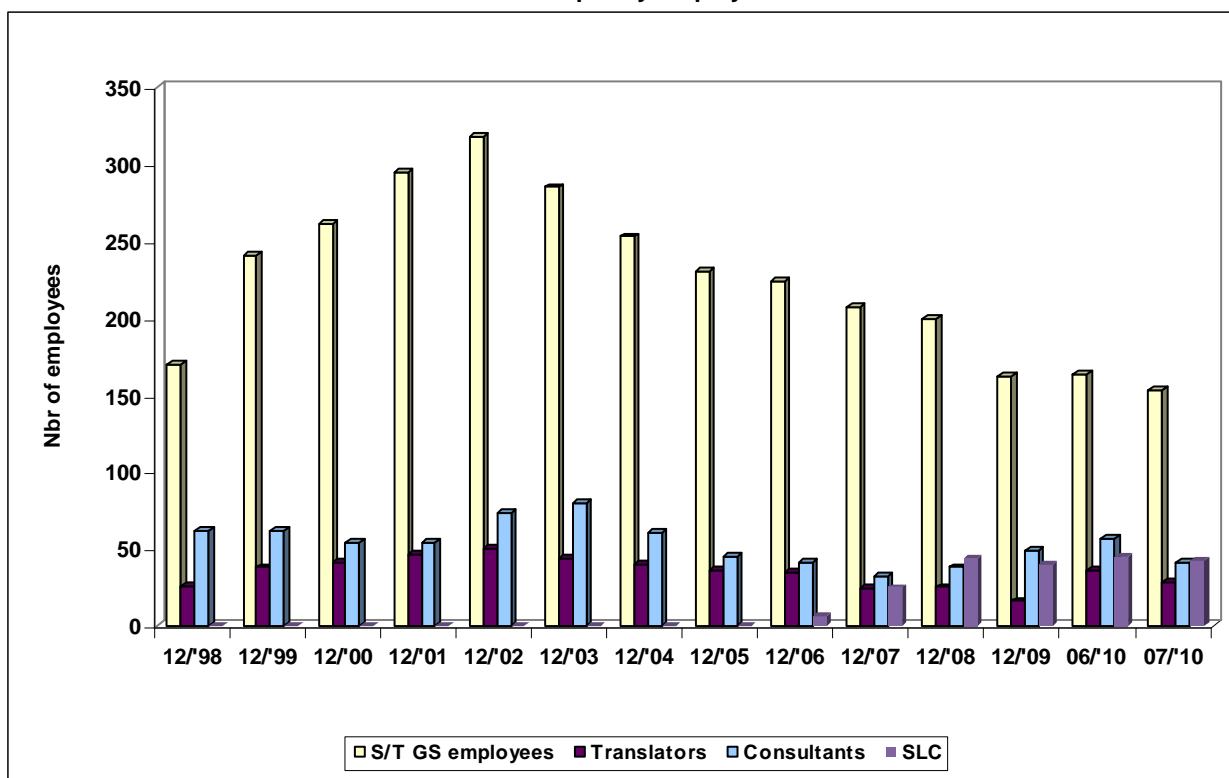
LONG-SERVING TEMPORARY EMPLOYEES: REGULARIZATION STRATEGY PROPOSAL

document prepared by the Secretariat

I. INTRODUCTION

1. This document provides (i) an overview of the current situation in respect of long-serving temporary employees, together with (ii) a strategy proposal for consideration by the Program and Budget Committee for regularizing this category of employees over a period of five years.
2. Temporary contracts initially began to be used to cater to the resource requirements generated by the exceptional growth of the Organization and its workload, particularly in the PCT, during the nineties. During this time WIPO recruited many employees, without the commensurate ability to create regular posts to accommodate the same. The ensuing period of budgetary constraints further aggravated this situation.

Chart 1. Evolution of Temporary Employee Numbers 1998-2010



3. The total number of temporary employees as of June 30, 2010 is 301, as compared to 936 fixed-term staff (a total of 1237 employees). Temporary employees are those who hold one of the following contract types: short-term General Service; short-term Translator; WIPO consultant; or Special Labour Contract (SLC).
 - (i) Short-term General Service and Translator contracts are issued for up to 6 months, or 11 months and 3 weeks¹, and may be extended in line with operational needs;
 - (ii) WIPO Consultant contracts are issued for a period of up to 12 months and may be extended in line with operational needs; and
 - (iii) SLC contracts are issued for up to 12 months, and are limited in duration to a maximum of 3 years in total.

4. Table 1 provides a detailed breakdown of the temporary contract-holders by contract type and by years of service. The scope of the proposed strategy would be focused on the functions of “long-serving” temporary employees who are performing functions that are assessed by the Organization as continuing in nature. For the purposes of this strategy, the Organization has defined “long-serving” as temporary employees with five or more years of continuous and satisfactory service on January 1, 2012². As the Table indicates, 145 Temporary General Service employees have been with the Organization for over five years and most of these (137 employees), for over seven years.

¹ Contracts of 11 months and three weeks may be issued after five years of service, as per Office Instruction No. 24/2005.

² Five years of service is used, in relation to Temporary General Service employees, to mark a transitional point where they are granted a longer length of contract (as per Office Instruction No 24/2005). The period of five years is thus consistent with the Organization’s current practice.

Table 1. Distribution of Temporary Population by Length of Service and Type of Contract

Type of Contract	Average length of service		Count	Less than	More than	More than	More than	More than	More than	More than	More than	More than	More than	More than
	service	Percent		1 year	1 year	2 years	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years
TEM/GS	6.8	54%	163	9	19	8	7	2	3	5	23	37	21	29
TEM/Tra	4	12%	36	19	1	1		2			3	6	1	3
CON	3.5	19%	57	16	16	7	3	1			3	8	2	1
SLC	1.7	15%	45	11	13	21								
Total	5.1	100%	301	55	49	37	10	5	3	5	29	51	24	33
Percent				18%	16%	12%	3%	2%	1%	2%	10%	17%	8%	11%

5. It is recognized that the evolution of the current situation of the Organization, in respect of its long-serving temporary employees is symptomatic of most UN organizations and stems from the imposition of ceilings on posts under the regular budget. Such a ceiling is seen by Member States to be a tool to manage the long-term commitments of organizations to both current and future liabilities in respect of the human resources employed to deliver the work required. Regrettably this has not been a successful tool in most organizations, and several of WIPO's sister UN organizations have grappled, or are grappling with issues similar to those that WIPO is trying to address in respect of temporary resources that are used to support continuing functions.
6. In the following sections, the document presents an overview of how the Secretariat intends, with the support of Member States, to prevent the recurrence of the problems faced currently; what steps and measures have already been taken over the past years to attempt to address the problem; and a strategy proposal to resolve the current problem from 2012 onwards.

II. HOW TO PREVENT RECURRENCE OF THE PROBLEM

7. The primary tools for preventing the recurrence of these issues have to be a combination of measures implemented by the Organization and Member States jointly. These include specifically:
 - (i) *Legislative and administrative elements* – the Staff Regulations and Staff Rules need to contain sufficiently clear and strong guarantees in respect of the length of service limits under various contract types to ensure that it is clear to all employees what their contractual arrangements are, including the length of service and the conditions of renewal/extension. Temporary contracts are planned to be included in and governed by the Staff Regulations and Rules, thus ensuring that the conditions of service are the same for all staff;
 - (ii) *Appropriate contractual instruments (types and conditions) to reflect the business needs of the Organization* – anything else will continue to generate pressure to identify loopholes and exceptions in both the use and types of legislated contract types. As part of the implementation of the Organization's Strategic Realignment Program (SRP) and the new Staff Regulations and Staff Rules (SRR), a thorough review is being undertaken of the business needs of the Organization, and the appropriate contractual instruments (types and conditions) to address these. Some of this work was already completed within the context of the preparation of the first draft of the proposed new SRR, and will continue as part of both the revision of the regulatory framework for HR management, and the organizational design and functional analysis component of the SRP, with a view to ensuring that the new SRR is complete, relevant, and appropriate for the long-term needs of the Organization;
 - (iii) *Enhanced workforce planning from Program Managers* – a more thorough HR planning process is required from Program Managers to allow a better identification of their future workforce – temporary and longer term;

- (iv) *Reliable and transparent methods of costing and resourcing activities to be undertaken as mandated by Member States* – while it will always be necessary to recruit human resources on a temporary basis – for purposes of startup or new activities, as well as short or defined term activities (projects), and for other purposes such as illness or maternity cover, or peak workload – there must be a reliable mechanism which provides a platform for presenting cases where such temporary resources become part of the ongoing continuing and/or core activities and resource needs of the Organization. This platform would be the Program and Budget proposal and the mechanism would be the process of consultation and approval of the Program and Budget by Member States. The key in this process is to recognize that where the resources are proposed and not approved, the activities will consequently also not be carried out. Conversely, where the resources are approved, the Organization must be accountable for carrying out the activities and delivering the expected results;
 - (v) *The appropriate and timely application of the flexibility mechanisms* approved by Member States for the PCT, Madrid and Hague systems³ and referred to under Financial Regulation 5.6, which allow for the reflection of unbudgeted changes in workload with proportionate changes in the resources allocated to the corresponding programs under WIPO's biennial budget. The flexibility formula to be applied in the case of each of the respective unions defines resources in terms of total resources allocated to programs, which can then be utilized to fund either personnel (post or non-post) or non-personnel costs. The adjustment can be allocated to the administration of the PCT, Madrid and Hague systems and support services at a ratio of 87.5% to 12.5%, respectively;
 - (vi) *Development of alternative HR solutions to staffing issues*, – e.g. a centralized pool of secretarial support in each Sector; training and development for professional staff to ensure higher levels of autonomy; increased use of employment agencies for temporary needs, or outsourcing of non-core activities.
8. While the above represent simple principles and a solid common sense and pragmatic approach to the issue at hand, there must be full commitment from those concerned in order to ensure that they are implemented rigorously. Follow-up tasks and proposals will be prepared by the Secretariat over the coming years, primarily linked to and as part of the SRP implementation, which will address the creation and implementation of the tools listed above.

³ Documents PCT/A/36/5, dated August 17 under the Patent Cooperation Union (PCT Union); MM/A/38/5 dated August 17, 2007 under the Special Union for the International Registration of Marks (Madrid Union); and H/A/24/3 under the Hague Union, dated August 17, 2007. The approved Formulae provide for an adjustment (upwards or downwards) of: (i) 341,870 Swiss francs for each variation of 1,000 international applications in the case of the PCT system; (ii) 197,060 Swiss francs for each variation of 500 registrations and/or renewals in the case of the Madrid system; and (iii) 99,024 Swiss francs for each variation of 300 registrations and/or renewals recorded in the Hague Union Registry.

III. ADDRESSING THE ISSUES

9. As the paragraphs below illustrate, the problem of long-serving temporary employees in WIPO is not new. Over the past years, a significant amount of time and effort has been expended on reviewing the associated issues with a number of measures already introduced in a phased manner and to the extent possible. These are described below.

A. PHASE I

10. In order to begin to address the difference in conditions of service between long-serving temporary employees and those performing similar functions on fixed-term contracts, the Director General established a dedicated Internal Task Force⁴ in October 2006, with the following terms of reference: in a first phase, to identify the gap between the remuneration and benefits of temporary employees versus fixed-term staff, and to propose measures to close this gap; and, in a second phase, to formulate recommendations for the possible regularization of temporary employees through regular budget posts.
11. Upon conclusion of the first phase of its work, the Task Force recommended a number of measures to reduce the gap between the remuneration and benefits of temporary employees and those of fixed term staff. Following extensive discussions and consultations, the Director General approved a number of measures, including:
- annual within-grade step increase: an annual within-grade step was awarded to short-term General Service employees, effective May 1, 2007;
 - language allowance: a language allowance was granted to eligible short-term General Service employees, with retroactive effect from January 1, 2007;
 - contract break: the current mandatory break required between two consecutive contracts was reduced from nine days to seven days, as of April 1, 2007; and
 - training grant: the eligibility for training grants was extended to short-term General Service employees on the same basis as that offered to fixed-term staff, as of the academic year 2006/2007.
12. While the granting of the above entitlements further aligned the conditions of service of temporary employees with those of fixed-term staff, it did not fully resolve the issues. Furthermore, it also did not address the issue of the double-layer of administration (i.e. one layer for temporary and one layer for fixed-term staff), which can be equated into cost inefficiencies for the Organization (staff time to acquire specialized knowledge and administer different benefits and entitlements, contract renewals, salary processing, etc.).

⁴ The Task Force comprised two members of the Staff Council, a member of the Human Resources Management Department, a member of the Controller's Office, and a member of the Legal Counsel's Office.

B. PHASE II

13. Following the implementation of the above, within the context of the revised Program and Budget for 2008/09, Member States approved the creation of 30 new General Service posts for 2009, representing 15% of the total temporary employee headcount as at end 2007 (220 temporary employees). These posts were advertised internally, and were used to regularize temporary positions which had been assessed as performing continuing functions within the Organization. This increase in the number of posts did not increase the total number of employees at WIPO, as the temporary employees whose contracts were converted to fixed-term contracts were not replaced.
14. The initial calculations indicated that the average incremental cost per post would be in the order of 20 thousand Swiss francs per year - the actual average cost following implementation was confirmed as approximately 14 thousand Swiss francs per post per year.

C. PHASE III

15. The Voluntary Separation Program (VSP) was launched in April 2009, in response to the Organization's need to reduce the headcount at a more rapid rate than was being achieved through natural attrition and projected retirements, which runs at approximately 2% per annum. It was envisaged that the VSP would also afford the Organization the opportunity to equip itself with additional skills and competencies, such as specialist skills relating to intellectual property, languages, management, information technology and human resources necessary to deliver its mandate.⁵

Table 2. Summary of the Results of the VSP Exercise

VSP applications	105
Not approved	(6)
Approved for separation	99
Withdrawn (after approval)	(12)
Total No. of VSP separations	87

16. A total of 105 applications for separation within the framework of the VSP were submitted to the Director of HRMD by staff at different levels and from different occupational groups. These applications were reviewed by an Evaluation Group. The Evaluation Group made 99 favorable recommendations, and 6 negative recommendations, taking into account the needs of the Organization. It can be noted that some staff members declined the offer after official notification of the result of their applications. Further information on the VSP process is contained in document WO/CC/63/3, which will be presented to the Coordination Committee in September 2010.
17. With the separation of 87 staff members who hold regular budget posts, these posts will be available to:
- (i) reinvigorate the workforce through the recruitment of fresh talent with skill sets not available internally and which are necessary for the achievement of the Organization's mandate in the context of the Strategic Realignment Program;

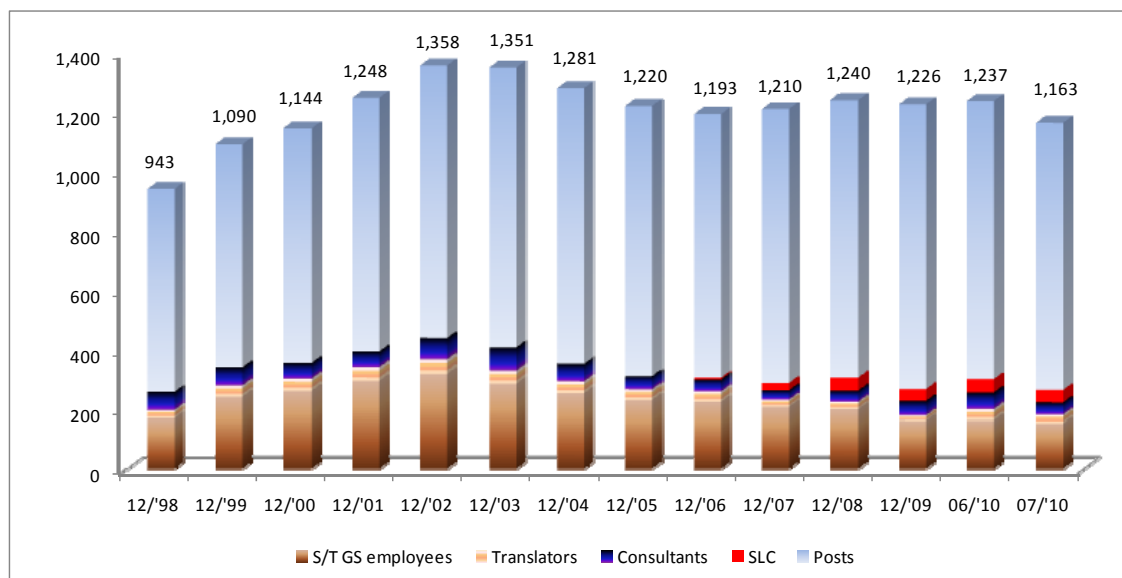
⁵ Program and Budget for the 2010/11 Biennium page 19 paragraphs 31 and 32

- (ii) reduce the total WIPO headcount by filling some of the posts vacated by the VSP with internal candidates who might not be replaced; and
 - (iii) regularize the contractual (temporary) status of high-performing and well-qualified temporary employees whose functions are continuing in nature.
18. Through a consultation process conducted with all Sector ADG/DDGs and the Director General, it was provisionally decided that 55 posts (43 General Service and 12 Professional level) will be filled internally, and 28 posts (five General Service and 23 Professional level and above) will be advertised both internally and externally; a decision regarding the remaining four posts is pending.
 19. HRMD is proposing a fast-track approach for posts to be filled internally. The recruitment/selection modalities that will be used for the fast track approach would be determined and agreed upon, in consultation with senior management and with the Staff Council.
 20. While the 55 vacated VSP posts to be filled internally will provide opportunities for career development for fixed-term staff members, for temporary employees they represent an avenue to be appointed to a fixed-term post. Where, as an outcome of a competitive process, a fixed-term staff member is selected, the vacated post will represent yet another opportunity for regularization of a temporary employee.
 21. The remaining 28 vacated VSP posts are being used to attract applicants with certain skills sets that the Organization does not have currently (e.g. language skills such as Chinese, German, Japanese, and Korean, as well as specific technical competencies).

IV. PHASE IV - PROPOSED STRATEGY 2012 ONWARDS

22. The Director General has committed to drawing up and presenting a five-year strategy for approval by Member States, with the objective of regularizing the contractual status of long-serving temporary employees performing continuing functions in WIPO.
23. Over this time period, approximately 64 staff members are due to retire and there may be further openings due to resignations, etc. Overall, however, this represents a natural attrition rate of around 2% per year on average. Such an attrition rate will make it impossible to address the issue of long-serving temporary employees performing continuing functions through attrition alone.
24. It is envisaged to ensure that as well as addressing the issues over the next five years, the solution to be put in place would represent the best interests of the Organization over the long term, without creating a new platform for the recurrence of the same phenomenon in the future.

Chart 2. Evolution of Total Headcount 1998-2010
(Regular budget, excluding SSAs and interns)



25. The approximate number of employees estimated to be on board as a result of the headcount reduction program of 2010/11 was 1,200 (excluding SSAs and interns). At the same time, posts under the regular budget are 1,044. It is therefore proposed that Member States approve, in principle, the creation of up to 156 posts under the regular budget over a period of five years, subject to the availability of budgetary funds for this purpose. An estimate of the number of such posts to be used for the regularization of long-serving temporary employees and funded would be provided as part of the budget proposals submitted to the Program and Budget Committee for the following biennia⁶. The launch year for the process of regularization of long-serving temporary employees would be 2012, thereby providing possibilities to assess the success of the VSP exercise in absorbing the planned number of long-serving temporary employees, as well as providing opportunity to incorporate the proposal for the first phase of the regularization exercise into the 2012/13 budget proposal.
26. The process for regularization would ensure a thorough review of the functions currently filled by temporary employees, in order to confirm that they are of a continuing nature. Program Managers will be requested to provide the initial assessment of the functions and confirmation of their continuing need, which will be verified against the functional analysis prepared for the area within the context of the Strategic Realignment Program and, more specifically, the organizational design initiative. Where there is a confirmation of the need for the function, a post from the pool of posts to be used for the regularization of long-serving temporary employees will be allocated for the area.
27. Following a detailed review and thorough calculations, it is estimated that the current average cost of a regularization of a long-serving temporary employee would be approximately 15 thousand Swiss francs per year. The total incremental cost for the 156 posts to be used for the regularization of long-serving temporary employees would amount to approximately 2.3 million Swiss francs per year,

⁶ It should be noted that there may be other additional proposals for new posts in light of the requirements for new skills and/or resources over time, which may also form part of the budget proposals as appropriate.

representing just over one percent of the Organization's total personnel costs (not including any future liabilities that may arise in respect of various staff benefits such as termination, after service health insurance, etc.).

28. Given the current economic situation and the possibility of reduced income levels continuing for some time, it is not foreseen to be possible to propose that all regularizations of long-serving temporary employees take place in a single year or biennium. This approach would provide flexibility to use and absorb the posts in full cognizance and consideration of the Organization's income situation.

29. The Coordination Committee is invited to take note of the information provided in the present document and to approve the proposals contained in paragraphs 22-28 of the present document.

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