



*executive committee of
the directing council*

PAN AMERICAN
HEALTH
ORGANIZATION

*working party of
the regional committee*

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HIRING UNDER LOCAL CONDITIONS OF EMPLOYMENT FOR THE MOBILIZATION OF
NATIONAL RESOURCES

A new category of personnel, known as national staff members, was created by the XXII Pan American Sanitary Conference (1986) in Resolution XIX (Annex I). The resolution amended the PAHO Staff Regulations to establish this category of personnel with conditions of employment governed by national legislation and labor practices in the country in which they serve. Pursuant to the resolution and Staff Rule 015.2, the Executive Committee must confirm the implementing rules issued by the Director of the Pan American Sanitary Bureau to regulate contracts of this type of national personnel.

The Director submitted proposed rules to the April 1987 meeting of the Executive Committee's Subcommittee on Planning and Programming. This Annex to the Staff Rules of the Pan American Sanitary Bureau, presented in Annex II of this document, has been revised, taking into consideration the comments and recommendations of the Subcommittee. The rules are now being presented, with accompanying explanations and remarks, to the 99th Meeting of the Executive Committee for review and confirmation.

The XXII Pan American Sanitary Conference in Resolution XIX (Annex I) established a new category of personnel referred to as "national staff members," with conditions of employment governed, in fact and in law, by the national legislation and the labor practices of the country in which they serve. In order to formalize the relationship of the Organization with the new category of staff, Articles 1.12, 1.13, 1.14, 1.15 were added to the existing PAHO Staff Regulations by the XXII Pan American Sanitary Conference in 1986. The essence of the relationship between the Organization and the national employees is contained in Article 1.13 of the Staff Regulations:

"1.13 The contracts of such national employees shall be governed in every aspect, including those of work-related accidents, social security and pensions, by the labor laws and practices of the country concerned."

In order to regulate contracts of the type referred to in Article 1.13 above, the Pan American Sanitary Conference in operative paragraph 2 of Resolution XIX requested "...the Director to issue such rules as he may deem appropriate..." subject to confirmation by the Executive Committee, and to incorporate them into the Staff Rules. As a consequence, pursuant to the request of the Conference, the Director established a joint working group with the participation of the representatives of the staff in order to prepare the text of the proposed rules. Attached, as Annex II, are the proposed staff rules which incorporate the clarifications in language, and the additions resulting from the discussions and reviews which took place during the sessions of the Subcommittee on Planning and Programming. Explanatory remarks with regard to the intent of the proposed staff rules in the light of questions raised by the members of the Subcommittee are also provided. The new rules establish the broad framework or structure by which Article 1.13 of the Staff Regulations will be implemented.

Subject to review and confirmation by the Executive Committee, these rules will be incorporated into the present Staff Rules of the Bureau.

It is pointed out that, in compliance with the directive of the Conference, the implementation of these new rules will be on a limited basis. In this connection and as a first step, an analysis has been made of the staffing situation at the Pan American Foot-and-Mouth Disease Center (PANAFTOSA). It should be noted that PANAFTOSA is an important multinational center of the Organization with a component of personnel recruited according to the labor legislation of Brazil during the past many years. The number of employees falling into this category is 104. In this particular instance, the Organization recognizes, under its own new regulations and rules, the de facto existence of "national employees" who are assigned to PANAFTOSA.

In the case of the Pan American Zoonoses Center (CEPANZO), 41 new posts have been established under the new staffing scheme. A similar action has been taken regarding the Pan American Center for Human Ecology and Health (ECO), for which 14 posts have been authorized under revised Article I of the Staff Regulations.

In addition to the above, two support posts have been established for the PAHO/WHO Representative's office in Brasilia.

No post other than those mentioned above have been authorized. Those posts already established strictly relate to support staff who are 68% male and 32% female at this time. It is not contemplated to implement the staff regulations and staff rules for professional staff prior to completing additional studies which will be submitted to the Executive Committee at the appropriate time.

The steps hitherto taken by the Secretariat, as reported above, have resulted in the application of lower rates of salaries than those of the common system of salaries and allowances in use by the United Nations and its Specialized Agencies. This will entail savings to the Organization with regard to the funding of these Centers, as well as to the funding of some representations in the future. At some time in the future, additional posts for support staff are expected to be established in other Centers such as CLAP (35 posts) and CFNI (5 posts) as well as on an exceptional basis in some PWR offices to be determined later on.

It is considered that the establishment of this new category of staff will only be justified, as indicated during the sessions of the Subcommittee on Planning and Programming, if the costs of the new posts do not exceed 70% of the cost of the posts under the United Nations system. In this connection, the Organization has examined the costs involved in hiring national employees in three centers: PANAFOTSA, CEPANZO and ECO. Based on a conservative analysis of the differences in costs to the Organization between a regular PAHO post and a national post, it is possible to state at this stage that the savings on such posts range from 30% to 55%. The average savings are 45% based on the actual costs per national post at different grade levels, as related to comparable PAHO international support posts.

The Organization foresees that in PWR offices and other PAHO Centers, costs are likely to be similarly reduced, i.e., similar savings achieved. Thus, the hiring of national employees would be attractive from a budgetary standpoint. This is stated with the understanding that the Organization would continue to be able to hire qualified personnel under these conditions.

The Secretariat will be progressively implementing the revised Article I of the Staff Regulations as well as the new Staff Rules just developed in order to achieve the objectives foreseen by the XXII Pan American Sanitary Conference in the course of its discussions on the mobilization of national resources. The Executive Committee, through its Subcommittee on Planning and Programming, will be kept informed of developments concerning the employment of national staff.

Based on the report of the Secretariat, the Executive Committee may wish to confirm the Staff Rules, the text of which is attached as Annex II to this document.

Resolution XIX

Hiring under Local Conditions of Employment for the Mobilization of National Resources

The XXII Pan American Sanitary Conference,

Having reviewed the Director's report (Document CSP22/28) on the local hiring of personnel;

Considering that the Organization possesses, in its own right, the legal capacity needed to issue its own legally binding rules on the appointment, qualifications, rights and obligations of its employees, and further possesses within the territory of each of its Member Countries the status of juridical person, endowing it with the capacity to take legal actions and enter into agreements of any nature; and

Mindful that these two capacities make it legally possible and fitting to establish two categories of personnel in the Organization, the first comprised of international staff members, whether internationally or locally recruited who will continue to be governed, as hitherto, by the Staff Regulations and Staff Rules of PAHO, and the second, created by means of this resolution, consisting of national staff members appointed to such posts as the Director shall determine, who shall be governed in all their relations with the Organization by the labor laws and practices of the country in which they serve. This new category of personnel shall replace that of the present contractors and consultants in cases in which there actually exists an employer/employee relationship, and personnel in this category shall be referred to as national staff members because their conditions of employment shall be governed, in fact and in law, by the labor legislation and practices of the countries in which they serve,

Resolves

1. That effective immediately until 30 September 1989 (unless a differing recommendation be made by the Executive Committee in the interim), the Staff Regulations of PAHO shall be amended as follows:

"1.12 The Bureau may hire under local conditions of employment national staff members (nationals of the country and aliens, whether residents or not, who legally qualify for employment there), to whom the Staff Regulations and Rules shall not apply save in regard to the present Article I on Duties, Obligations and Privileges as national employees and not as international functionaries. Respecting privileges, such employees shall be governed by the Basic Agreement on Privileges and Immunities between the Organization and the country in which they are employed.

1.13 The contracts of such national employees shall be governed in every aspect, including those of work-related accidents, social security and pensions, by the labor laws and practices of the country concerned.

1.14 The Director shall determine the posts to be subject to these rules and shall establish scales of salaries and allowances, in conformity with competitive conditions of employment of the locality in the type of work performed or related to the functions of the office.

1.15 National employees shall have access to arbitration or labor tribunals of the countries in which they are employed for the settlement of disputes, in accordance with their respective contracts, and shall therefore have no access to the Administrative Tribunal of the International Labor Organization, whose competence is not recognized in respect of national employees."

2. To request the Director to issue such rules as he may deem appropriate to regulate contracts of this type for national personnel, subject to confirmation by the Executive Committee pursuant to Staff Rule 015.2, and to incorporate them into the Staff Rules.

3. To request the Director to provide the Executive Committee with annual interim reports on the implementation of these amendments to the Staff Regulations, and with a full report, prior to 31 May 1989, to include such matters as identification of the positions involved, the cost implications, administrative adjustments, and general operations of the system of hiring under local conditions of employment, together with his recommendations regarding this new system.

4. To request the Director, pending completion of the review by the Executive Committee in 1989, to implement these amendments on a limited basis and to exclude from the application thereof any currently established posts under the Staff Rules and Regulations which are not or do not become vacant, unless the Executive Committee decides otherwise in advance.

5. To delegate to the Executive Committee the authority to determine if these amendments to the Staff Regulations shall remain in effect after 30 September 1989.

*(Approved at the tenth plenary session,
26 September 1986)*

CE99/16 (Eng.)
ANNEX II

ANNEX TO THE STAFF RULES OF THE
PAN AMERICAN SANITARY BUREAU

ANNEX TO THE STAFF RULES
OF THE PAN AMERICAN SANITARY BUREAU

EXPLANATIONS/REMARKS

(National Employees - Article I of the Staff Regulations)

Scope and Purpose

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| N 010 | The following Staff Rules are for the purpose of implementing Articles 1.12, 1.13, 1.14, and 1.15 of the Staff Regulations of the Pan American Sanitary Bureau, as they apply to staff recruited by the Bureau in accordance with local laws and practices of the countries in which they serve. These Staff Rules are effective as from 1 July 1987. All subsequent modifications shall become effective as from the date shown thereon. | The purpose of this rule is to comply with the request of the Pan American Sanitary Conference to produce rules related to the implementation of Staff Regulation 1.13. |
| N 020 | For purposes of these rules a national employee shall be defined as a national of a country or an alien, whether resident or not, who is legally qualified for employment in the country. | A definition of "national" has been included as requested by the members of the Subcommittee on Planning and Programming. The definition is the one used in Document CSP22/28 (English) of August 1986. |
| N 030 | The Director may delegate to other officials of the Bureau such powers as he considers necessary for the effective implementation of these Rules. | To ensure appropriate delegation of authority to officials concerned at various locations as well as PAHO Headquarters, in relation to the effective implementation of the proposed rules. |

Classification of Posts

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| N 110 | All posts established under Staff Regulation Article 1.14 shall be classified in accordance with local standards pertaining to the classification of posts in comparable occupations. | To ensure consistency and order in the classification of the different types of positions. The classification should involve the consistent ordering of positions in classes and categories, due regard being given to the needs of each office. |
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Salary Rates

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| N 210 | Salary rates shall be established in accordance with the reasonable market conditions of the locality, subject to the approval of the Director. Salary comparisons should be made as much as possible with government and semi-government institutions and/or other entities where the work performed is similar in nature to that of the Bureau. In the administration of salaries and allowances each Representation/Center/Project shall ensure compliance with local laws and procedures | To make sure that reasonable rates of pay are obtained on the basis of local surveys performed by PAHO officers or locally recruited salary surveyors. While salaries might not be the best in the locality, they should be sufficiently attractive to recruit personnel called upon to perform full time work on the basis of a normal 40 hour work week (Staff Rule 350 and 410). |
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N 220 Salaries shall be payable monthly or as required by local labor practices.

To ensure consistency of payment practices, if possible, with the Organization's existing policy.

N 230 Salary advances, not exceeding one month of total pay, may be made under justifiable circumstances. Such advances shall not be authorized more than once a year and may be recovered in installments.

This is meant to help employees in case of emergency when their existing resources are not sufficient to meet unforeseen payments.

N 240 Salaries shall be subject to deductions, arising from social security schemes, salary advances, and any other valid reason.

This staff rule is meant for salary deductions which might arise in applying Article 1.13 of the Staff Regulations already approved by the Conference. Social security schemes are meant to include pension, life, accident, illness, unemployment insurances which might be available in different countries. All salary matters have been included under the general heading of salary rates, whether payments, advances, deductions, etc.

Recruitment and Appointment

N 310 The main consideration in the selection of national staff shall be competence in relation to the post to be filled and the integrity of the individual under consideration.

The intent is to state the general policy that staff to be recruited will meet the requirements of the posts. It is reflected in the existing PAHO Staff Rules (reference Staff Regulation 4.2).

N 320 The Director or his delegated representatives shall have the authority to appoint national staff for periods of one year or more, or for indefinite periods, subject to a satisfactory medical determination. Fixed-term appointments could be extended for further periods, as required. Each appointment shall be in keeping with local labor practices.

The purpose of this rule is to provide the mechanism to appoint and to extend appointments. The reference to indefinite appointments relates to the fact that in some countries all appointments become indefinite, by local laws, after an initial period of three months.

N 330 All national staff shall be selected on a competitive basis by means of selection committees established in each locality. Selection committees normally should be composed of at least three staff members: one staff member serving as representative of the receiving unit, one serving as representative of the staff and one or more serving as independent staff member(s). Selections should be approved by the Director or his delegated representative.

The intent is to ensure objective selection processes.

N 340 No person closely related by blood or marriage to an existing staff member of the Bureau shall be appointed unless an exception has been obtained from the Director.

N 350 National staff selected for posts in the Bureau should normally devote the whole of their time to the Organization. National staff wishing to seek employment elsewhere in addition to the position to which they have been selected in the Bureau should report the matter to the Director, for authorization.

Attendance and Leave

N 410 The normal work day shall be eight hours and the normal work week forty hours.

N 420 The holidays observed by the national governments shall also be observed by the national employees in accordance with local policies and practices.

Social Security

N 510 Entitlements to annual, sick and maternity leave shall be in accordance with the practices prevailing in the locality. Administrative leave with pay or without pay may be provided, for valid reasons, when requested. All leave entitlements shall be stated in the written terms of appointment.

N 520 Each Representation/Center/Project shall ensure compliance by national staff members with social security requirements, including tax legislation, when applicable. The Bureau shall report to the authorities, as well as to national staff members, such withholdings as may be required by local laws for pertinent purposes.

N 530 National staff shall be compensated by the national social security system or by the Bureau, in the event of illness, accident or death attributable to the performance of their official duties on behalf of the Bureau. The compensation shall not normally exceed that which is prevailing in schemes of national social security. Where there is no such scheme available, the Bureau shall provide reasonable compensation.

This staff rule is to ensure safe workload for all staff and to control possible conflicts of interest that might develop for staff members who might be holding two different positions.

This is meant to ensure conformity with existing working hours of the Organization.

To comply with Staff Regulation 1.13.

To clarify the provision of Staff Regulation 1.13, as in some countries legislation varies in accordance with the employment seniority of staff. In some countries, for instance, annual leave consists of 20 days (ECO), 20 days (CEPANZO), 22 days (PANAFTOSA). Maternity leave policies, when existing, also differ in their content depending on national legislation.

This is meant to ensure that there is appropriate reporting of social security payments, tax withholdings when required, withholdings for social security, unemployment insurance, etc. There is substantial variance from one country to another in payments and withholdings.

This article is meant to cover compensation with regard to the implementation of Staff Regulation 1.13. In this connection, the expression "reasonable compensation" is in line with Article 6.2 of the Staff Regulations. What will be considered "reasonable" will be recommended by the existing machinery within the Organization, i.e., the Advisory Committee on Compensation Claims. "Reasonable" is likely to be interpreted as something not out of line with the status and the emoluments of employees concerned, due regard being given to the facts and circumstances of the case.

Conduct and Disciplinary Measures

- N 610 The basic standards of conduct for national staff are set forth in Article I of the Staff Regulations to the extent that the Article relates to national staff. This is meant to provide adequate machinery to deal with breaches of conduct and discipline.
- N 620 Breaches of conduct shall be dealt with by way of any one or combination of the following: Ditto
- N 620.1 oral warning;
 N 620.2 written reprimand;
 N 620.3 assignment to a less responsible post;
 N 620.4 dismissal.
- N 630 National staff can be dismissed for just and sufficient cause. They shall not be dismissed as a result of misconduct before they have been notified of the charges made against them and been given an opportunity to reply to those charges. Such notification shall be in writing, and unless the urgency of the situation prevents, the individual shall be given a reasonable time to submit the reply. Ditto

Separation from Service

- N 710 In the event of separation from the service of the Bureau due to programmatic reasons, the period of notice shall be as prescribed locally. Termination indemnities shall be paid, as applicable, from the termination fund established by the Bureau for the purpose. Staff Rule N 710 foresees the establishment of a fund to compensate employees who are separated from the Organization, as such compensation is sometimes required by the law and labor practices of each country. The fund will be similar to the one existing for termination of international staff and will be constituted by a portion of the salary. The national salary or percentage has not yet been determined, but will be the subject of future discussions.

Right of Association

- N 810 National staff at each locality shall have the right to associate themselves for the purpose of ensuring that the terms of their appointment are observed and for the purpose of promoting their interests.

Grievance Procedure

N 910 Grievances resulting from the interpretation of the Staff Rules or the terms of the employment contract should be settled as a first step at the level of the supervisor(s) and the staff member concerned, at the local level. If the grievance cannot be settled, it should be referred within 60 days to the Director and his representative(s), who should provide a proposed settlement after review and consideration of all the facts of the case.

The purpose of the staff rule is to provide a fair grievance and arbitration procedure in relation to the labor practices and legislation in the countries and in relation to staff.

Arbitration

N 920 In the event that it has not been possible to settle the grievance as indicated in Staff Rule N 910 by common agreement, disputes should be resolved by way of arbitration, as reflected in the individual appointment documentation, or as prescribed by prevailing government legislation. Arbitration should take place in no case sooner than 90 days following the date on which the grievance has been officially referred to the Director.

Regulation 1.13. It is considered that a grievance review process composed of three steps:

1. Supervisor (local level)
2. Director (HQ level)
3. Arbitration

would be effective in solving most of the disputes.

General Provision

N 1000 Any matter arising which has not been foreseen by the above-mentioned Staff Rules shall be considered, reviewed and settled in accordance with the Bureau's practices and/or local legislation and practices.

N 1010 In case of differences between local legislation and any provision of these Rules, the local legislation shall prevail.