

IOM IN THE UN SYSTEM: SOME FUNDAMENTALS

QUESTION: WHAT IS THE NATURE OF IOM'S NEW STATUS WITH THE UN?

ANSWER:

- IOM will be part of the UN system as a related organization.
- Being part of the UN system as a related organization means that IOM has agreed to work with the UN and the other organizations of the UN system in harmony with the purposes and principles contained in Articles 1 and 2 of the Charter of the United Nations of 1945 (UN Charter) which serve as guiding objectives for all (e.g. for international peace and security, equal rights and self-determination of peoples, international cooperation to solve international problems, respect for human rights, etc.), while remaining a fully separate and independent organization, in the same way it has always been.
- This is a situation similar to that of the specialized agencies, such as the World Health Organization (WHO), the International Labour Organization (ILO), the World Bank and others, as well as of other related organizations, such as the International Atomic Energy Agency (IAEA) and the World Trade Organization (WTO).

QUESTION: WHAT IS THE UN SYSTEM AND IS IT THE SAME AS THE UN?

ANSWER:

- The UN system is made up of the UN, the specialized agencies and the related organizations.
- If used with precision, "UN" refers to the organization created by the UN Charter. There is, however, a tendency for "UN" to be also used in a loose and not strictly correct way to also refer to the UN system.
- The UN as an organization has six principal organs, namely the General Assembly (UNGA), the Security Council, the Economic and Social Council (ECOSOC), the Secretariat, the International Court of Justice and the Trusteeship Council (which suspended its operation on 1 November 1994). By comparison, IOM has two organs, namely the Council (of which the SCPF is a subsidiary body), which can best be compared to the UNGA, and the Administration, which can best be compared to the UN Secretariat.
- To better understand the UN system and its constituent parts, see the attached schematic chart on page 4 and note the structure and the varying status of IOM's traditional partners.
- Each UN principal organ has developed various substructures. The Secretariat has departments and offices (similar to IOM departments and offices), for example the Department of Economic and Social Affairs (DESA), the Department of Peacekeeping Operations (DPKO), the Office for the Coordination of Humanitarian Affairs (OCHA), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Office on Drugs and Crime (UNODC).
- The UNGA has, among others, funds and programmes and other entities, the difference being technical and relating to their constituent instruments and the way in which their governance and management structures operate. The United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF) and the World Food Programme (WFP) are in the funds and programmes category, while the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Office for Project Services (UNOPS) are classed as other entities. All have their origins in constituent decisions by the UNGA.

- **Specialized agencies**, such as the Food and Agriculture Organization (FAO), the ILO and WHO are separate and autonomous intergovernmental organizations which are brought into relationship with the UN, in accordance with Articles 57 and 63 of the UN Charter, on terms and conditions defined by ECOSOC, which also has a coordinating role in respect of the activities of these organizations.
- **Related organizations**, such as IAEA, WTO, the Organization for the Prohibition of Chemical Weapons (OPCW) and now IOM, are separate and autonomous intergovernmental organizations brought into relationship with the UN on the terms and conditions contained in a relationship agreement that deals specifically with these organizations and which reflects the specifics of each organization. IOM's relationship agreement with the UN will be signed on 19 September 2016.
- To be distinguished from the UN system is the UN common system, which specifically refers to the system of standardized salary scales, emoluments, allowances and social security. IOM has been broadly following the UN common system for several years, but has not accepted the statute of the International Civil Service Commission (ICSC), which administers it. This means that IOM is currently not legally bound by decisions taken by the ICSC, nor will it be so after becoming a UN related organization.

QUESTION: WHAT IS A RELATED ORGANIZATION AND HOW DOES IT DIFFER FROM A SPECIALIZED AGENCY?

ANSWER:

- Most people are more familiar with the concept of specialized agencies than that of related organizations.
- **Specialized agencies**, such as FAO, the ILO and WHO, are separate and autonomous intergovernmental organizations which are brought into relationship with the UN. There are currently 17 specialized agencies.
- The relationship between the UN and specialized agencies is specifically regulated by the UN Charter.
- The UN Charter defines specialized agencies as entities established by intergovernmental agreement and having wide international responsibilities in economic, social, cultural, educational, health and related fields.
- The UN Charter specifically provides that specialized agencies should be brought into relationship with the UN by way of an agreement negotiated by ECOSOC and approved by the UNGA.
- Once an entity becomes a specialized agency, it is under an obligation to align its activities with the UN.
- Therefore, specialized agencies are typically:
 - ◆ Expected to implement the recommendations made by the UN;
 - ◆ Required to provide necessary information and assistance to the UN;
 - ◆ Required to submit reports on their activities to the UN;
 - ◆ Required to submit their proposed budgets to the UN.
- Furthermore, under the UN Charter, ECOSOC may coordinate the activities of the specialized agencies, and the UNGA should examine the administrative budgets of the specialized agencies and make recommendations (although in practice the budgets of specialized agencies are not subjected to examination as foreseen in the UN Charter).
- The UNGA has, as a matter of practice rather than through provisions contained the UN Charter, also brought other international organizations into relationship with the United Nations, not as specialized agencies, but as related organizations.
- **Related organizations**, such as IAEA, WTO, OPCW and now IOM, are also separate and autonomous intergovernmental organizations. However, they are brought into relationship with the UN on the terms and conditions set out in a relationship agreement. IOM's relationship agreement with the UN will be signed on 19 September 2016. With IOM, there will be eight related organizations.

- Related organizations emerged as a separate category, primarily to establish close relationships with international organizations that did not work in the economic, social, cultural, education, health and related fields, or which were not prepared to accept the comprehensive scope of the type of relationship that is normally established between the UN and the specialized agencies.
- The agreements concluded by the UN with related organizations are similar to those concluded with the specialized agencies, but the obligations to align their activities with the UN are less stringent.
- Therefore, related organizations are typically:
 - ◆ Not specifically expected to implement recommendations of the UN;
 - ◆ Not required to submit proposed budgets to the UN;
 - ◆ Not required to submit reports on their activities to the UN.
- ECOSOC does not have the authority to coordinate the activities of related organizations, and the UNGA does not have the authority to examine the budgets of related organizations.
- However, related organizations are typically:
 - ◆ Allowed to attend meetings of UN organs as observers;
 - ◆ Permitted to propose items to be included in the agenda of a UN organ;
 - ◆ Allowed to participate in UN coordination mechanisms as full members, such as in the Chief Executives Board for Coordination (CEB). IOM will be a full member of this mechanism, which seeks to ensure coordination between the organizations and entities of the UN system.
- In practical day-to-day terms, little or no distinction is made between related organizations and specialized agencies, and the agreements bringing them into relationship with the UN share many similar provisions.

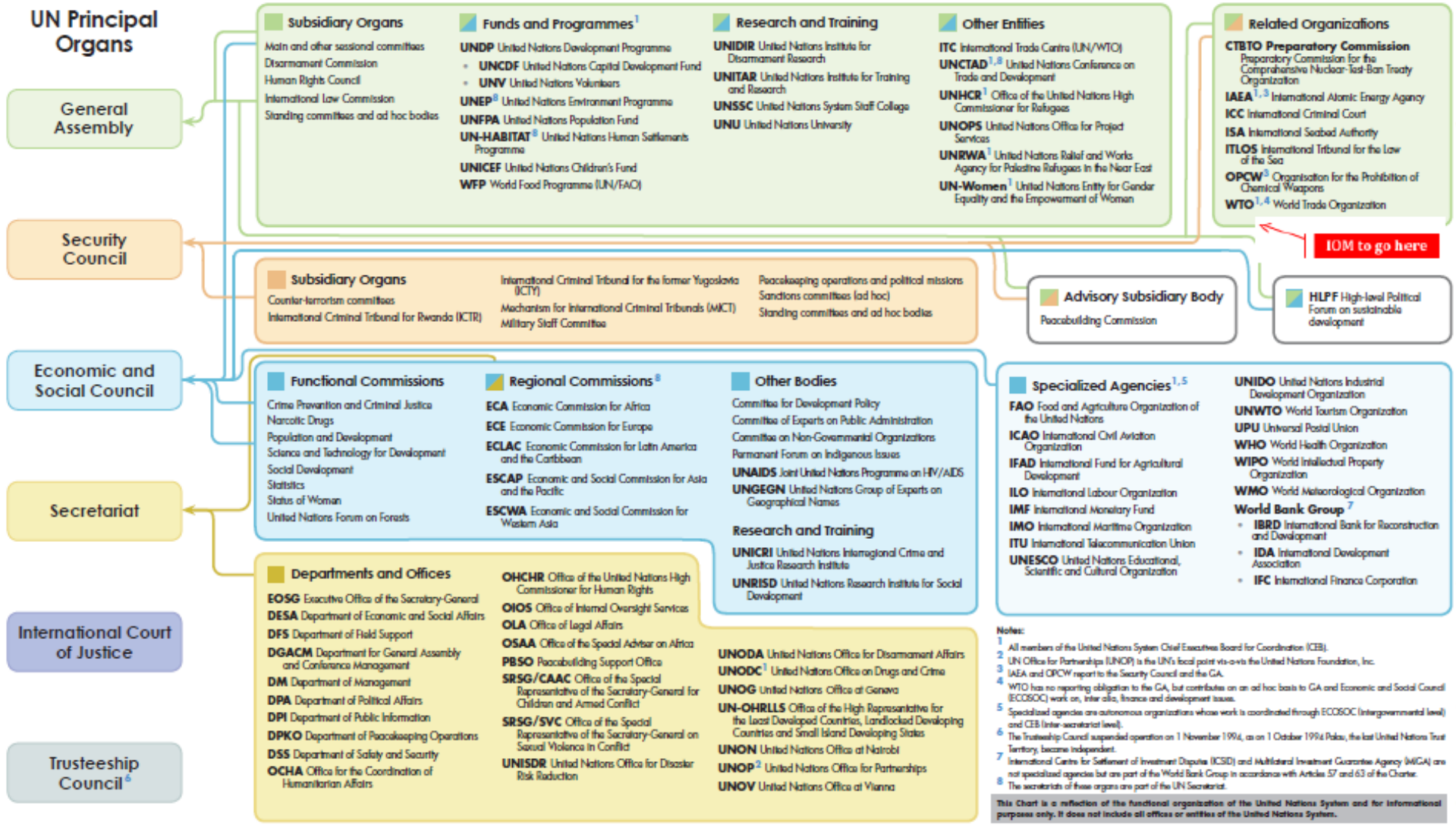
QUESTION: WHICH OTHER ORGANIZATIONS ARE RELATED ORGANIZATIONS?

ANSWER:

- International Atomic Energy Agency
- World Trade Organization
- Organization for the Prohibition of Chemical Weapons
- International Tribunal for the Law of the Sea
- International Seabed Authority
- International Criminal Court
- Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization
- IOM (from 19 September 2016)



The United Nations System



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QUESTION: WHAT ARE IOM'S LINES OF ACCOUNTABILITY?

ANSWER:

- IOM is accountable to its 165 Member States through the IOM Council, the highest authority of the Organization. The main functions of the Council, as set out in the provisions of the IOM Constitution, are to: determine the policies of the Organization; review the reports, and approve and direct the activities of the Director General; review and approve the programme, the budget, the expenditure and the accounts of the Organization; and take any other appropriate action to further the purposes of the Organization.
- IOM has agreed to work with the UN and the other organizations of the UN system in harmony with the purposes and principles contained in Articles 1 and 2 of the UN Charter which serve as guiding objectives for all (e.g. for international peace and security, equal rights and self-determination of peoples, international cooperation to solve international problems, respect for human rights, etc.), while functioning as an independent and autonomous international organization that has related organization status in the UN system.
- The terms of the IOM–UN relationship agreement also set out certain provisions that would enable the Organization to provide visibility of and accountability for its activities with respect to the UN system, including at the global, regional and national levels. These provisions are similar in a number of respects to those outlined in other relationship agreements between the UN and the specialized agencies and related organizations, and therefore provide for similar accountability mechanisms.
- For example:
 - ◆ Under Article 3(2), IOM agrees to participate in, and to cooperate with, any body or bodies that have been established or may be established for the purpose of facilitating cooperation and coordination at the global, regional or country levels between organizations of the UN system. Such participation and cooperation will be in accordance with the existing rules of procedures of these mechanisms, and IOM has to contribute to their cost-shared budgets in accordance with established cost-sharing arrangements.
 - ◆ The following mechanisms of which IOM is/will become a member are specifically listed in the relationship agreement, although it is not limited to these:
 - The CEB and its subsidiary bodies, which are:
 - High-level Committee on Programmes (HLCP)
 - High-level Committee on Management (HLCM), including the Inter-Agency Security Management Network;
 - United Nations Development Group (UNDG) and its regional and country teams;
 - Inter-Agency Standing Committee (IASC);
 - Executive Committee on Humanitarian Affairs;
 - Global Migration Group;
 - Country-level security management teams.
 - ◆ Under Article 4, IOM may, if it decides it to be appropriate, submit reports on its activities to the UNGA through the UN Secretary-General. Council Resolution No. 1317 of 30 June 2016, in which the Council approved the draft relationship agreement between IOM and the UN, requires this to be done in accordance with the policies and decisions of the IOM Council.

QUESTION: WHAT DOES IT MEAN THAT IOM IS NON-NORMATIVE?

ANSWER:

- IOM understands “non-normative” to mean that the Organization does not set binding norms or participate in “enforcing” binding norms for its Member States. This is not unlike a number of other organizations that are part of the UN system.
- There is no standard definition of this concept.
- The non-normative nature of IOM has been established by its Member States, most recently in Council Resolution No. 1309 of 24 November 2015. It is thus for IOM and its Member States to interpret the meaning of this concept as it applies to IOM, and not for any other organization or body to do so.
- IOM understands this concept quite narrowly and only in terms of not setting or enforcing binding norms vis-à-vis States. This does not preclude IOM from, as it has always done, developing and working on migration policies, best practices, identifying precedents or having a rights-based approach to its activities.
- Neither does this preclude IOM from identifying the existing legal obligations of States (e.g. because of the international treaties they have voluntarily accepted or because of customary international law that applies to them), advocating for these to be complied with and assisting States in putting in place laws, policies, mechanisms and procedures to implement them.
- IOM advocates in its customary manner of not “naming and shaming”, but by fostering a constructive spirit of cooperation with States and to provide them with support.

QUESTION: DOES IOM HAVE A PROTECTION MANDATE?

ANSWER:

- Yes, the IOM Constitution and the decisions of its Council give the Organization a clear protection mandate.
- IOM has, through its Constitution and the policy documents adopted by its Member States (the latest being Council Resolution No. 1309), a mandate to protect migrants and their rights and to do so through the promotion of their dignity and well-being as well as the respect, protection and fulfilment for and of their rights, be it as a direct objective or an indirect outcome of the Organization’s activities and in accordance with international law.
- IOM implements its supportive protection role by having a rights-based approach to all its policies, strategies, projects and activities.
- In Article 2(2) of the IOM–UN relationship agreement, the UN also recognizes IOM as an essential contributor to the protection of migrants.
- IOM activities can protect many of the migrant rights enshrined in international, regional and national instruments, including with respect to access to justice, remedy and reparation, family, social security, health, education, decent standards of work, decent standard of living, non-discrimination, privacy and data protection. The results of its activities can either be immediate or longer term; they can be preventative, responsive or remedial and can be aimed at building an environment conducive to the respect of migrants and their rights.

- The protection provided by IOM focuses on effective implementation of existing norms and standards related to the rights of migrants, found at the international, regional and national levels. These standards and rights are not abstract or rhetorical notions: they have specific contents and can be claimed, and their effective implementation requires specific and concrete action. On this basis, IOM responds, in cooperation with and with the support of States, to the needs of populations in a manner that ensures their impartial protection and the protection of their rights, through its policies, strategies, projects and activities. It goes beyond simply the physical and material needs of migrants.
- IOM acknowledges that the primary duty to protect migrants and their rights lies with States, and recognizes their sovereign right to determine admission and residence of non-nationals on their territory.
- IOM engages in supportive protection of migrants by supporting States and its other partners in their respective protection responsibilities, resulting in increased protection of migrants, sometimes directly and sometimes more indirectly. IOM's policy of supportive protection is distinguishable from substitutive protection, which is a responsibility that has been conferred on some other organizations and bodies by States through specific and limited international treaties.
- Migrant protection involves activities that seek to secure rights directly, as well as activities that aim to create a society in which rights are recognized and upheld. This notion is paramount since it underpins the idea that individuals should be protected even when a clear and direct threat to any right is not imminent, and thus the action is not necessarily directly aimed at the individual(s) in question but at establishing a general condition of respect of rights and thus of the migrant(s).

QUESTION: WHAT ARE THE IMPLICATIONS OF ARTICLE 2(5) OF THE RELATIONSHIP AGREEMENT (“...IN ACCORDANCE WITH THE PURPOSES AND PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS...”) FOR IOM?

ANSWER:

- In becoming a related organization, IOM has recognized the responsibilities of the UN under its Charter, and undertaken to conduct its activities in accordance with the purposes and principles of the Charter, contained in its Articles 1 and 2, which serve as guiding objectives for all (e.g. for international peace and security, equal rights and self-determination of peoples, international cooperation to solve international problems, respect for human rights, etc.).
- The UN and IOM will “cooperate and conduct their activities without prejudice to the rights and responsibilities of one another” (Article 2(6) of the relationship agreement). IOM has agreed to participate in, and cooperate with, the internal coordination mechanisms of the UN system as a full member and to do so in accordance with the established rules of procedure of these mechanisms. Important also is the fact that this participation is at the global, regional and country levels.

QUESTION: WILL IOM HAVE TO (RE-)NEGOTIATE ALL ITS AGREEMENTS WITH UN AGENCIES?

ANSWER:

- The partnerships with other UN entities will continue to be close and based on mutual respect. While the agreements will need to be updated to take account of IOM's change of status, the ongoing

working relationship at all levels, including in the field, should not be affected negatively while the process of updating the formal agreements takes place.

QUESTION: WILL IOM NOW HAVE FULL PRIVILEGES AND IMMUNITIES IN ALL COUNTRIES WHERE IT OPERATES?

ANSWER:

- Not simply because IOM has become a related organization of the UN system.
- IOM will still have to negotiate privileges and immunities with each country individually. Being part of the UN system will in some cases strengthen IOM's argument for requiring privileges and immunities similar to those enjoyed by other organizations of the UN system.
- In some instances, the fact that IOM is part of the UN system will make it easier for States, in terms of their national legislation, to grant such privileges and immunities to the Organization.

QUESTION: WILL IOM STAFF MEMBERS BE ELIGIBLE FOR THE UN LAISSEZ-PASSER? WILL THIS BE AVAILABLE TO ALL STAFF OR RESTRICTED TO SPECIFIC CATEGORIES OF STAFF?

ANSWER:

- Under the terms of Article 11 of the relationship agreement, IOM staff may use the UN laissez-passer as a valid travel document, but only where such use is recognized by States in their privileges and immunities agreements with IOM.
- This implies that, where IOM's existing privileges and immunities agreements do not specifically provide for this, it has to be inserted, or, where they provide in a general manner for privileges and immunities similar to those of the 1947 Convention on the Privileges and Immunities of the Specialized Agencies, it has to be confirmed with the State.
- Administrative arrangements for the issuance of the UN laissez-passer to IOM staff members still have to be agreed between the UN Secretariat and IOM.

QUESTION: WILL ARABIC, CHINESE AND RUSSIAN BECOME OFFICIAL IOM LANGUAGES?

ANSWER:

- Not simply because IOM has become a related organization of the UN system.
- The official languages of the IOM Council remain English, French and Spanish, as decided by the Council (Rule 21 of its Rules of Procedure).
- Since adding additional official languages would have direct budgetary and staffing implications, any change would have to be approved by the Council.

QUESTION: WILL THE IOM FLAG AND LOGO CHANGE?

ANSWER:

- Not simply because IOM has become a related organization of the UN system.
- IOM will not add olive branches to its logo; nor will the IOM blue hue be changed to that of the UN.

QUESTION: WILL IOM STAFF MEMBERS NOW BE ABLE TO BECOME UN RESIDENT COORDINATORS AND UN HUMANITARIAN COORDINATORS?

ANSWER:

- IOM staff members already have access to these pools, and one IOM staff member is already a Resident Coordinator. IOM's new status will allow it to put forward candidates in its own name and this may well improve the consideration given to qualified IOM candidates.
- In some instances, IOM Chiefs of Mission are requested to temporarily fill the duties of a Resident Coordinator and/or Humanitarian Coordinator at the request of the Coordinator to cover his or her absence. With IOM becoming a related organization, IOM Chiefs of Mission may now agree to this request.

QUESTION: WILL IOM'S ROLE WITHIN THE IASC AND THE CLUSTER SYSTEM CHANGE AS A RESULT OF ITS RELATED ORGANIZATION STATUS?

ANSWER:

- IOM has been a standing invitee to the IASC since its establishment in 1991 (through General Assembly resolution 46/182 of 19 December 1991). IOM's new status within the UN system will confer to it full membership in the IASC. In practical terms, however, the IASC does not confer separate roles and responsibilities to standing invitees and full members, and no significant change is expected as a result of IOM's new relationship with the UN.
- IOM has been part of the global cluster system since its inception in 2005, most notably through its role as global lead agency of the Camp Coordination and Camp Management Cluster, a function it shares with UNHCR. This will continue to be the case.
- IOM takes part in humanitarian country teams in all locations where they have been established and where IOM plays a humanitarian role; this will continue to be the case. Membership in the humanitarian country teams is not limited to UN system entities.

QUESTION: WILL IOM BE ABLE TO ACCESS UN-MANAGED MULTI-PARTNER TRUST FUND RESOURCES AUTOMATICALLY?

ANSWER:

- IOM will be able to access multi-partner trust fund resources automatically by signing the same memorandum of understanding as the other UN participating organizations.

QUESTION: WILL IOM HAVE TO SIGN UNITED NATIONS DEVELOPMENT ASSISTANCE FRAMEWORKS WHEREVER THEY ARE BEING DEVELOPED?

ANSWER:

- IOM has agreed to participate in the UN system coordinating mechanisms in accordance with the existing rules of procedures of these mechanisms and the Organization will normally have to sign the United Nations Development Assistance Frameworks.

QUESTION: WILL IOM HAVE TO CONTRIBUTE TO COST-SHARING ARRANGEMENTS RELATED TO UNITED NATIONS COUNTRY TEAMS (SECURITY, IT, ETC.)?

ANSWER:

- Yes, the relationship agreement provides that IOM will contribute to the cost-shared budgets, in accordance with established cost-sharing arrangements, of all the coordinating mechanisms of which it is a member or a participant.

QUESTION: WILL IOM RECEIVE AN INCREASED LEVEL OF UNEARMARKED FUNDING LIKE OTHER UN AGENCIES?

ANSWER:

- Not simply because it has become a related organization of the UN system. IOM's funding model will remain as is, including its core budget and the practice of projectization.

QUESTION: WILL THE FINANCIAL POLICIES AND PROCEDURES OF IOM CHANGE AS A RESULT OF JOINING THE UN SYSTEM?

ANSWER:

- IOM will continue to operate based on its own financial policies and procedures, which will not change because it has joined the UN system.
- IOM has been participating as an observer in several UN system coordination initiatives within the area of financial management (Treasury Network, Finance and Budget Network, Task Force on Accounting Standards) in the past and will continue to take part in these forums, now as a member.

QUESTION: WILL IOM BENEFIT FROM THE UN BUDGET?

ANSWER:

- No, IOM remains an organization that is separate from the UN, with its own budget and approval process governed by its Council and Member States.

QUESTION: WILL IOM'S OVERHEAD RATE CHANGE?

ANSWER:

- Not simply because it has become a related organization of the UN system.
- IOM's overhead rate was determined by its Council in Resolution No. 1265 of 26 November 2013 and can be changed only by another decision of the Council.

QUESTION: HOW WILL THE ORGANIZATION'S NEW STATUS AFFECT IOM STAFF MEMBERS IN TERMS OF THE NUMBER OF WORKING HOURS AND OFFICIAL HOLIDAYS, IN CASES WHERE THESE DIFFER FROM STANDARD UN PRACTICE?

ANSWER:

- IOM will continue to operate based on its policies and regulations, which remain unchanged.

- Staff Regulation 5.1 provides that the normal working week shall be 40 hours. Staff Regulation 5.2 establishes, in accordance with UN practice, that 10 official holidays are determined per year for each duty station. There will be no change in this regard.

QUESTION: WILL IOM STAFF MEMBERS BE CONSIDERED INTERNAL CANDIDATES FOR VACANCIES AT THE UN?

ANSWER:

- It is important to note that staff members of one UN system organization are generally not considered as internal candidates for other UN system organizations. The UN is currently trying to harmonize recruitment practices through the “Delivering as One” initiative, initially at the local level. However, UN system organizations have not yet revised their recruitment policies as a result of this initiative. It remains a work in progress.

QUESTION: TO WHAT EXTENT WILL RECRUITMENT PRACTICES BE STANDARDIZED? WILL IOM BE PART OF ANY UN STANDARDIZATION PROCESS AS FAR AS RECRUITMENT PROCESSES ARE CONCERNED?

ANSWER:

- Recruitment practices for graded positions have been standardized in IN/233/Rev. 1 and are largely aligned with relevant practices in the UN system. All UN agencies have slightly different recruitment practices, but similar main principles apply. No further standardization is expected to take place, except if the “Delivering as One” initiative mentioned above is implemented.

QUESTION: WILL IOM STAFF BE ABLE TO MOVE WITH THEIR CONTRACTUAL BENEFITS TO THE UN?

ANSWER:

- IOM is not currently signatory to the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations applying the United Nations Common System of Salaries and Allowances. IOM will now give consideration to signing the Agreement.
- If IOM were to sign the Inter-Organization Agreement, this would provide a framework to allow IOM staff members on a fixed-term or regular contract to retain some or all of their entitlements when moving to a UN organization on transfer, loan or secondment, and vice versa, although each individual case would require an individual agreement between the staff member and the releasing and receiving organization, all of whom must agree to the arrangement.

QUESTION: WILL THERE BE A RECLASSIFICATION OF IOM STAFF POSITIONS ACCORDING TO THE SAME CRITERIA APPLICABLE TO OTHER STAFF MEMBERS IN THE UN SYSTEM?

ANSWER:

- IOM follows the classification standards established by the ICSC which are followed by the UN common system organizations and utilizes the same grading tool. Changes to the classification of IOM positions are therefore not expected as an immediate result of IOM’s new status as a related organization, although some gradual alignments may be made to IOM structures.