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## Report of the 237th meeting of the GAC on 30.11-01.12.2011 in Munich

### Summary

The 237<sup>th</sup> meeting of the GAC (General Advisory Committee) was the tenth and final GAC meeting of 2011. To the best of our knowledge, this figure has only been exceeded in 2007, when there were twelve meetings. The agenda comprised a number of recurring items (salary, nominations, kilometre and daily allowances, healthcare insurance related items and adoption of the lump sum amounts in Circular 326 relating to removals) which are always on the GAC's agenda towards the end of each year. Additional items included final rates for death and invalidity insurance, contribution rates to the NPS and SSP, Pre-employment screening, file selection for CLOQC, a report on the accrued liability of the funded healthcare insurance scheme, reorganisation of the Communication Department and the PAX reference examiner values.

### 2011 Salary adjustment

For details on this topic, see the Staff Committee publication entitled "Adjustment of salaries from 1.7.2011<sup>1</sup>" dated 15.11.2011, which gives details of this year's adjustment and outstanding issues. The proposals can also be found in MICADO as CA/105/11 for presentation to the December meeting of the Administrative Council. After the meetings of the GTR and the wise men, but before the meeting of the AC, the document is always sent to the GAC for opinion, in order to meet the requirements for statutory consultation as set out in Article 38(3) ServRegs.

It is by now well known that the calculated adjustment for all sites are positive for this year. However, for Germany (Munich and Berlin), as well as for the Netherlands there were deficits to be overcome owing to the negative adjustments in 2010 and the application of the so called "nominal guarantee clause", according to which negative adjustments shall be set against future adjustments and salaries maintained at their previous level. In the case of Germany, the 2011 adjustment is large

enough to make good the deficit from 2010. In the case of the Netherlands, this is not the case. The result is that the Office proposed to the Council that salaries in the Netherlands should remain frozen, in Germany should rise by 0.3% and in Austria should rise by 0.85%. As last year, the President committed to defend the nominal guarantee clause in front of the Council.

To the best of our knowledge, the adjustment reflects a correct application of the method. The GAC thus gave a unanimous positive opinion on the proposal.

In the meantime, the Council has adopted the President's recommendations, including the renewed adoption of the nominal guarantee clause in the Netherlands.

### Spouse's contributions to EPO medical system

For more information on this point, see our report of the 212th, 219th and 227th meetings of the GAC.

As the reader will be aware from the start of 2008 the administration introduced measures to (under certain circumstances, namely if they

<sup>1</sup> the paper is available from  
<http://munich.suepo.org/archive/sc11231mpe.pdf>

do not have their own "primary" medical insurance) make staff members contribute extra (i.e. over and above the usual premium) for their spouses, should they wish to maintain their spouses coverage under the EPO's healthcare system.

Under these circumstances, staff are charged nothing for spouses earning less than 50% of a C1/3 level salary, a lower premium for spouses earning between 50% and 100% of a C1/3 level salary and a higher premium for spouses earning over 100% of a C1/3 level salary. Premiums are calculated separately for staff with spouses employed in the Netherlands (where the Office offers a so-called "integrated solution" using a single external insurer, currently ONVZ) and for spouses employed elsewhere, who are assumed to work in Germany.

As with normal healthcare insurance, the contribution rates for this needs to be reviewed periodically, and the administration has decided to do this annually.

Each year, we have essentially set out the same objections to the administration's proposals.

In particular, as set out in our report of the 219th meeting, we are convinced that the contribution levels for countries other than the Netherlands are set far too high.

With respect to the Netherlands, for the third year in a row, the administration presented a different methodology for the proposed premium for spouses earning between 50% and 100% of a C1/3 level salary. We pointed out that, although the President has discretion to set the premium levels, he cannot in good faith use a different method each year for no apparent reason. This is especially so given that no methodology has been sent to the GAC for opinion.

For the above reasons, we gave a negative opinion on the proposals. In our opinion, we gave a number of observations concerning how we considered the premium for spouses earning above 100% of a C1/3 level salary in Germany should be calculated. We also suggested that a number of items should be submitted to the Health Insurance Working Group (HIWG), including:

- developing a proposal for an "integrated solution" in Germany, similar to the system that the Office has set up in the Netherlands;
- study the methodology for deriving premiums for spouses earning between 50% and 100% of a C1/3 level salary in **both** Germany and the Netherlands.

The members nominated by the President gave a positive opinion on the proposal.

### **Death and invalidity insurance**

Calculation of contribution rates for death and invalidity insurance are performed on three year windows. The previous period ran from 2008 through 2010. Thus the administration presented to the 227th meeting of the GAC details of a preliminary settlement for 2008 - 2010. At that time, the system looked to be in surplus. The preliminary settlement proposed to reimburse to staff 90% of this estimated surplus (which was paid with the December 2010 salary). More details of this can be found in our report of that meeting.

At that time, the administration stated that it intended to present the final settlement to the GAC for (probable) reimbursement to staff in early 2011. Instead, it has taken the administration until the end of the year to present the figures. Too late, indeed, to be included in the December 2011 salary payslip.

The proposal confirms that the system was in surplus. It is thus intended to refund about 1.4% of one monthly basic salary to staff recruited after 10.06.1983 and about 1.9% of one monthly basic salary for staff recruited before that date.

As set out in earlier reports, we have consistently argued that the method used for calculating invalidity insurance premiums for staff recruited after 10.06.1983 is wrong. We thus again gave a negative opinion on this.

The administration proposed that in future no provisional review, only a final settlement should be made. Concerning this, we stated that, provided that the settlement was made early in the year, we had no objections to this in the case that the settlement involved a reimbursement to staff. However, in the case that contributions had to be recovered from staff, we suggested that it would be preferable

to delay this to the following December. Usually, there is a retroactive salary adjustment in December. Such a settlement could be (partially?) offset against the salary adjustment.

The members nominated by the President gave a positive opinion on the proposal.

### **Kilometric and daily allowances**

In accordance with Article 1 of our salary method, for these items the EPO merely uses the figures recommended by the Coordinating Committee on Remunerations (CCR) of the Coordinated Organisations (COs). Since, to the best of our knowledge, this was correctly reflected in the figures presented, the GAC gave a positive opinion on the two documents. However, the GAC also noted that the Committee of Staff Representatives of the Coordinated Organisations had contested the figures for Germany, the Netherlands, Luxembourg and Korea. The GAC thus recommended that, should this lead to readjustments of the allowances for these countries, then the Office should adopt this readjustment also.

### **Annual adjustment of removal expenses**

With Circular 326, the administration introduced a system of lump sum reimbursement for removal expenses. The circular foresees that the lump sum amounts will be adjusted by the arithmetical average rate of annual salary adjustment across all Office sites. As last year (for more details see our report of the 227th meeting of the GAC), the administration presented to the GAC a document stating that the current lump sum amounts should remain frozen i.e. will continue to be applicable. The reason is that last year's average was -1.4%. Adding this year's arithmetic average (+1%) to this still resulted in a negative residual of -0.4%.

The GAC unanimously considered that this is a pragmatic approach within the spirit of the regulation. However, the GAC also noted that the purpose of this allowance is to reimburse staff for expenses incurred. Since the level of the lump sums was fixed at their current levels, there has however been significant inflation in some member states. As a result, the amounts might no longer be adequate. Thus the GAC recommended reconsidering the functioning of

the Circular at the time of the next review of the salary method.

### **Contribution rates to the NPS and the SSP as from 1 January 2012**

More details on this subject, see our report of the 234th meeting of the GAC. Following that meeting, we reported that the actuaries had recommended to the Office to:

- increase the global pension contribution rate from 27.3% to 27.9%;
- for new staff, keep the NPS DB contribution rate at 21% (the difference between this and the global figure is fed into the Salary Savings Plan - SSP);

The Office accepted these recommendations. In the meantime, the changes to the pension contribution rates have been adopted by the Administrative Council. Concerning the SSP, formally the contribution rate is set by the President. Thus to this meeting of the GAC the President presented a proposal following the above. The effect of this is to increase the staff contribution to 6.9% of basic salary, up to a ceiling of twice the salary for grade C1 step 3, and to increase the contribution to 27.9% of the part of basic salary exceeding that ceiling. One third of this amount is payable by the staff member and two thirds by the Office.

In our opinion, we again pointed out that we consider the 21% NPS contribution rate to be too high. The reason for this is that it has been calculated on an "as if" basis, that is, assuming that staff recruited before 2009 were also in the NPS, which is not the case. Since the NPS contribution rate is too high, the SSP contribution rate (the difference between 27.9% and the NPS contribution rate) is too low. This has a negative effect on staff in the NPS. For this reason we gave a negative opinion on the proposal.

Moreover, we noted that in the three years since the system's introduction there have now been three different contribution rates. 4.3%, 6.3% and now 6.9%. This volatility casts doubt on the actuarial calculations upon which these figures are based. They cannot all have been correct!

The members nominated by the President gave a positive opinion on the proposal.

## Pre-employment screening

For more details on this subject, see our report of the 225th meeting of the GAC. There we reported that audit reports had raised the issue of people gaining employment in the Office on the basis of falsified certificates and professional backgrounds. In response, the Office presented a proposal defining four levels of people working at the Office (basically contractors, agency staff, agency staff with access to computer systems and permanent staff members). The document then described how screening for each level gets progressively more comprehensive, each level building on the lower one.

At that time, the GAC welcomed the introduction of measures that may serve to protect the Office - and the staff - against fraud and which might improve the quality of recruitment at the Office. However, the GAC also recommended waiting for the evaluation of the results of a pilot before Office-wide implementation of screening.

To the current meeting of the GAC the administration presented a paper giving the results of the pilot and, in the light of this, a recommendation, which was basically to continue with the program.

The results of the survey revealed problems in eight out of 134 cases screened, i.e. 6%. These ranged from withdrawn applications to alleged forged professional qualifications. In the GAC's opinion, this demonstrates that it is worthwhile for the Office to have a screening program.

The GAC did not, however, consider that all of its observations from the 225th meeting had been fully taken into account. In particular:

- A proper review mechanism had to be provided for candidates who failed the screening;
- The proposal should be in the form of a Guideline e.g. in Part IV of the Codex;
- Editorial corrections.

The GAC thus gave a unanimous positive opinion on the proposal, but making the above suggestions.

## Revision of the file selection procedure for

## CLOQC

Cluster Level Operational Quality Control (CLOQC) was first discussed in the GAC in 2006 (see our report of the 190th meeting), and, following further consultation, introduced in 2007. Its functioning is thus by now well known to all Examiners and Formalities Officers (FO) in Patent Administration (PA).

Until now, file selection for files checked by the Quality Nominees (QN) has been random. This has had as an obvious result that high producing full-time examiners have their files selected more often than, for example, part time staff members whose production is lower.

The administration has perceived in this two problems, namely that not all examiners received annual feedback from their QN, and the CLOQC results may not be an accurate representation of the work of a whole directorate. Thus the administration presented a proposal to the GAC whereby each year a final action in examination and a search from each examiner will be checked. When this is completed, further files may be checked at random. However, at the same time, the total number of files checked will be reduced. This will have the effect that about 80% of files will not be selected at random. The FO will have the task of keeping a list to ensure, for each checked produce type, that no examiner is checked twice until all examiners are checked once. In the GAC the administration explained that whilst this meant that there would be more work per file for the FO, since fewer files would be checked, the total work load would not increase.

In our opinion, the proposal alters completely the nature of CLOQC. Currently, CLOQC is primarily used to produce statistics to allow the Office to monitor quality levels, detect trends and, if necessary, determine global training needs. It was not designed with the intention to provide individual feedback to each examiner, even if this might be desirable. This change thus means that the data from 2012 and beyond will not be compatible with data from previous years. This is particularly so since the number of randomly selected files will fall from about 13,500 to about 3000. We thus gave a negative opinion setting out the above and expressing our concern that the proposal effectively implies a reduction of the resources allocated to CLOQC.

The members nominated by the President gave a positive opinion on the proposal.

### **Report on the accrued liability of the funded healthcare insurance scheme**

With CA/D 14/09 the Administrative Council created a sub-fund of the RFPSS to cover past healthcare related liabilities. Originally, the Office had injected EUR 300 million into the RFPSS for this purpose.

As is now well known, in the meantime the Office has introduced a funded system for healthcare insurance, with an actuarially calculated contribution rate. The Actuarial Advisory Group (AAG) calculated a contribution rate of 9.2% of basic salary for healthcare insurance. This rate has applied since the beginning of 2011, with in principle one third payable by staff. However, during a transitional three year period, staff only pay the previous maximum of 2.4%. Currently, healthcare costs are lower than 9.2% of basic salary (see next but one topic). Thus an excess (see next topic) is currently being paid into this fund. This leaves, however, the question of whether or not the initial amount that the Office paid into the fund was adequate. Thus the administration presented to this meeting a report by the AAG on the accrued liability of the funded healthcare insurance scheme. This report stated that the accrued liability on 31.12.2010 has been determined at EUR 319.3 million. The report also stated that it has been determined that the worth of the fund at 31.12.2010 was EUR 308.3 million. That is to say, there was a funding shortfall of EUR 11 million, which they recommended the Office to transfer.

It is in staff's interest that, should a funded system be introduced, it starts off financially sound. That is to say, correctly funded. Otherwise, staff run the risk of being faced with increased contributions in the future. Thus in our opinion we insisted that, as a start, the Office should make good this identified funding shortfall.

However, we also pointed out that the calculation leading to this shortfall was based on the assumption that 9.2% was the correct contribution rate. In our opinion we thus further insisted that, should this figure in the future be demonstrated to be incorrect, then the office

should have the accrued liability re-established and transfer any deficit. This should be done both for the period up to 31.12.2010 and for the period between this date and the point in time when it is determined that 9.2% is not correct.

The members nominated by the President gave a positive opinion on the proposal.

### **Method for payments into the RFPSS for the healthcare insurance scheme**

Starting on 01.01.2011, the administration introduced a funded system for healthcare insurance. The reason is that the administration fears that, for demographic reasons, healthcare costs will rise in the future. Thus, money is currently being set aside and put into a fund of the RFPSS in order to finance future healthcare costs. The administration presented the GAC a proposal for a draft Circular attempting to inform staff in a clear manner how these payments into the RFPSS for the healthcare insurance scheme will be calculated. However, in our opinion, the current draft fails to achieve this aim. Rather, it manages to explain a relatively simple mechanism in a very confusing and complicated manner that extends over five (!) pages. On top of this, the Circular uses expressions such as "insured persons", "beneficiaries" and "insured population" the sense of which is not clear and which seem to be at least partially overlapping.

This alone is sufficient reason to give a negative opinion on a circular whose intention is to inform staff!

There were, however, further reasons to be negative on the proposal, which we set out in our opinion. These concern how the money collected in respect to working spouses, will be used in the framework of the new funding system for healthcare insurance.

There are two time periods to consider. The current transitional period, running for three years from 01.01.2011, when staff contributions to the healthcare insurance scheme are capped at 2.4% of basic salary, and the period from 01.01.2014, when the cap no longer exists.

For the period starting 01.01.2014, the proposal foresees that the collected money will

in effect be used to reduce the contribution which the Office has to pay. This is because the proposal foresees that the actuarially calculated contribution rate of 9.2% comprises:

Office contribution of 6.04% +  
Staff contribution of 3.02% +  
Spouses contribution.

We consider, however, that the spouses contribution should be considered as part of the staff contribution. This would require the Office to pay 6.13% instead, and staff a correspondingly lower amount of approximately 2.93%.

For the transition period (starting 01.01.2011 and running to 31.12.2013), last year for this period also the administration wanted to proceed in the same way set out above. Last year we gave a negative opinion on this and appeals were filed. This year, the administration seems to have accepted that, in the transition period, the total amount of the spouses contributions should be transferred to the fund. Accordingly, the Circular proposes to make a retroactive payment into the fund to reflect this.

In our opinion, we thus also wrote that we considered the way that the proposal foresees that spouses contributions are considered in the transition period is correct. The way that it is proposed to make payments into the fund for this period are correct. Thus it is necessary for the Office to make the proposed retroactive payment. However, we consider that the way that spouses contributions are taken into account after the transition period is not correct.

The members nominated by the President gave an opinion in which they noted that the proposal follows from a recommendation from the GAC in 2010 to explain the method to staff. They also claimed that it was in conformance with Council decisions. They failed, however, to state whether or not they gave a positive or negative opinion on the proposal!

### **Final healthcare insurance figures for 2010**

The administration finally presented the final healthcare insurance figures for 2010 to the GAC for opinion. Normally, this takes place before the summer break. Indeed, in the past the administration would have presented provisional figures for 2011 to this meeting of

the GAC!

The figures showed a claimed staff contribution rate of 2.55%.

Firstly, in our opinion the way that spouses contributions were taken into account in 2010 (the last year before introduction of a funded system for healthcare insurance) was wrong. Under that system, they were subtracted from the total reimbursements. The result is then divided by three to arrive at the above rate. In this way, the Office was, in effect, claiming two thirds of the spouses contribution for itself! In our opinion, the spouses contribution should, under the old "pay-as-you-go" system, have been counted 100% towards the staff contribution.

Secondly, the way the smoothing fund is used is, in our opinion, wrong (this smoothing fund is not to be confused with the fund discussed in the previous two articles; rather, it is a virtual fund containing excess contributions above a threshold from previous years). The Office only used EUR 800,000 from this fund (which stood at EUR 4.8 million), in order to freeze premiums. More (actually the complete smoothing fund, since 2010 was the last year under the previous "pay-as-you-go" system) could have been taken to lower the premiums.

Taking these two into account, we concluded that in actual fact the staff contribution rate could have been lowered to below 2.4%. In our opinion, this demonstrates that the move to a funded system is not justified. Indeed, in order to justify it the Office has had to resort to calculations which keep contributions artificially high. We thus gave a negative opinion on the document and recommended that, before the end of the current three year transition period, the Office revert to the previous pay-as-you-go financing basis.

The members nominated by the President gave a positive opinion on the document.

### **Reorganisation of PD 0.8**

The administration presented to the GAC a proposal to reorganise the external communication areas of PD 0.8 i.e. the Communication Department.

Originally, in 2004, the concept for PD 0.8 was based on staff being located on all sites. The

present proposal foresees to centralise staff in Munich without giving reasons for this, possibly leading to (forced?) transfers of staff to Munich or away from PD 0.8. In this way, in our opinion the proposal ignores the interest of the Office in consolidating external communication structures in strategic locations as Berlin, Vienna or Brussels. It also ignores the record of performance, experience and skills developed in external communication in these locations and in The Hague. Moreover, the proposal does not guarantee the continuity of the support currently provided to VP 1 in The Hague in the exercise of his representation tasks. Additionally, the proposal foresees creating a "Chef vom Dienst" at A4/1 level, located in the organisational chart close to the principal director. In our opinion, this creates confusion in the roles of the existing Director Media Relations, the principal director and the Chef vom Dienst. This new role carries a high risk of being divisive and problematic, and we perceive it as effectively down-grading the Director Media Relations activity. Indeed, even a cursory comparison between the current, logical and clear, and the proposed new organisational chart is enough to see that the proposed new structure is not clear and not logical.

The above concerns the structure. To the extent that staff are not affected, if the administration decides to introduce a deficient structure, that is the administration's problem. However, in any reorganisation, the most important aspect for us **is** how staff are affected. For us, that was the most worrying part of the proposal. In a department with about 15 people, it is foreseen that up to eight will have to move job and/or duty station. Transferring staff from one site to another can be very significant for the people concerned. This is why transfers are very rarely imposed on EPO staff. Hence such extraordinary decisions are never taken without very good reasons. None were provided in the proposal. Even worse, the proposal was silent on what would happen to the staff members who would have to leave 0.8.

The current Principal Director of PD 0.8 was present as an expert to explain the proposal to the GAC. Unfortunately, the answers he gave were generally vague or evasive. Notably, when we asked about the reason for putting the "Chef vom Dienst" directly under the principal director and not the director in charge

of media relations, the expert flatly refused to answer.

Following the discussions, we gave a negative opinion on the proposal. Both the proposal and the discussions in the GAC lacked respect both for the staff affected and for the GAC itself. We repeated that it was clear case law that the GAC had to be provided with enough information for it to be able to give a reasoned opinion. We also provided a list of the deficiencies which we saw in the proposal.

The members nominated by the President gave a positive opinion on the proposal. However, they also noted that eight staff members would have to move job; two of them might even have to move duty station. They thus recommended that the process be supported by HR in order to find satisfactory solutions for these staff members.

## **Nominations**

According to Article 98(1) and 110(4) ServRegs, the President has to present the names of his nominees as chairman (and deputy) of the disciplinary committee and chairman, members (and deputy members) of the internal appeals committee (IAC) to the GAC for opinion.

For the disciplinary committee, having not noted any problems with the functioning of the committee this past year, the GAC gave a positive opinion on the nominations.

For the IAC, the President nominated one new member and a new chairman, both nominees being well known within the Office. In our opinion, we expressed our confidence that these new nominees would be able to contribute to the good functioning of the IAC. However, we noted that the nomination of a new chairman and a new member had come as a surprise - not only to the members of the GAC, but also to the former chairman and members of the IAC. We criticised this non-involvement of affected staff. In addition, "through the backdoor", the President has started to change the structure of the IAC, by splitting the roles of Director 0.4 on the one hand and chairman of the IAC on the other hand. Previously, the same person performed both roles. An additional possible problem is that the proposed new chairman is based in The Hague whilst his support staff in DIR 0.4

are all in Munich. Moreover, the precise role to be played by the Director 0.4 in the future is not clear. We thus suggested that discussions needed to take place as soon as possible between all those involved in order to design a working arrangement that allowed the IAC and DIR 5.3.2 (the unit in DG5 responsible for dealing with internal appeals) to work together as smoothly as possible.

The members nominated by the President gave a positive opinion on the proposals.

The names of the nominees for both committees will be published by the administration in due course.

### **PAX reference examiner data**

On 20.10.2011 the preliminary Cluster and Peer Reference Examiner Data for 2012 were published on the intranet. This data was provisional, pending consultation in the GAC, and this was clearly indicated at the time of publication. The item was then passed on to VP1 Office in good time for the President to be able to present it to the GAC in 2011. However, for some reason, this was not done. Indeed, it seems that the item was somehow delayed and foreseen to be presented to the GAC in 2012. This would, however, have been too late. The provisional figures are needed for planning purposes in DG 1 in Autumn each year. In the end, the document was submitted to the GAC on the first day of the current meeting, in clear violation of Article 38(5) ServRegs.

That put the GAC in a difficult position. On the one hand, it is not in the interests of staff to have legal uncertainty. On the other hand, the rules concerning statutory consultation were clearly being violated.

In the end, the GAC decided to accept the document and give an opinion on it.

In our opinion, we stated that we were satisfied that the figures contained in the document have been calculated following the correct procedure and thus that these figures properly reflect the production and productivity in the different Joint Clusters in DG 1.

We noted, however, a slight increase of certain values in certain areas and suggested that these be monitored and wherever necessary, the GAC should be informed on the reasons

for these increases when the figures are submitted for opinion in the future.

Finally, we stated that we regretted that a document that was published to all staff on 20 October 2011 with the promise to submit it to the GAC for consultation in 2011 was submitted so late to the GAC, in breach of the regulations.

The members nominated by the President gave a positive opinion on the proposal, but also stated that they regretted the late submission of the document.

### **That was 2011**

The General Advisory Committee (GAC in English, ABA in German, CCG in French) is firmly anchored in Article 38 of the Service Regulations. This states that the GAC shall "be responsible for giving a reasoned opinion on any proposal to amend the(se) Service Regulations or the Pension Scheme Regulations, any proposal to make implementing rules and, in general, except in cases of obvious urgency, any proposal which concerns the whole or part of the staff to whom the(se) Service Regulations apply or the recipients of pensions".

The President is accordingly obliged to consult the GAC before taking a decision on any proposal affecting all or part of the staff. As a result of this, the main duty of the GAC is to help the smooth running of the Office by giving the President the best possible advice on any proposal, before said proposal is implemented. It goes without saying that the President should be interested in receiving and considering such advice. However, although, the President is obliged to consult the GAC, there is no obligation to follow any recommendations the GAC makes. Because consultation in the GAC is the minimum involvement to which staff have a statutory right, the CSC takes consultation in the GAC extremely seriously.

In general, as has been usual in recent years, the GAC meetings this year were held in a good constructive spirit. As in the past two years, the President mainly nominated Directors (from DG4 and DG5) as members of the GAC. On the one hand, they often had a good technical knowledge of the subjects being discussed. However, on the other hand it

was often clear that they were not authorised to make any substantial changes to the documents submitted. Rather, if they saw problems with a proposal they nevertheless tended to give positive opinion, but to accompany it with observations. Often, these observations were the very reasons why we would give a negative opinion on a proposal!

The GAC has six members nominated by the President and six nominated by the Central Staff Committee. The chairman alternates. One year the President nominates, the next the CSC. In 2011, it was the CSC's turn to nominate the chairman. For the first time, the CSC nominated Mr Ed Daintith as chairman. He generally has a relaxed style of chairmanship, which contributed to the constructive spirit in which most meetings were held.

Last year, we reported that we had the impression that, in the beginning of Mr Battistelli's presidency, he was at least considering the advice which the GAC forwarded to him in form of opinions, which led us to believe that he took seriously the GAC. This positive trend, however, has not continued. Moreover, it seems to us that he also receives rather strange advice from other quarters. For example, the so called "HR Roadmap" discussed in our report of the 236th GAC talks of "involvement of higher management" in the GAC in 2012. Indeed, the President published on 15 December the names of his nominees for 2012. The composition corresponds to that of the Management Committee (the MAC). All five Vice-Presidents (including PD 4.3, currently acting VP4) plus an additional senior manager in the MAC have been nominated as Chairman (VP3) or members (VP1, VP2, acting VP4, VP5, the Chief Financial Officer). Additionally, the Controller has been nominated as a deputy member.

Traditionally, the role of the GAC was to formulate reasoned opinions which the President could then consider with the MAC before deciding on a proposal. For this reason in the past it was considered that GAC and MAC membership should be mutually exclusive. Putting the MAC in the GAC will, in effect, mean that the MAC will be advising itself, rather than being independently advised. This will likely reduce the quality of the decision making process at the Office. Even if

the President were considering to dispense with the MAC, one consultation loop would be lost. We are not convinced that this is the best way forward. Furthermore, the senior managers of the Office also tend to have the busiest agendas. We can only hope that, in order to attain the quorum, they will make themselves available for all the regularly scheduled GAC meetings next year. Last but not least, there is also the problem that most MAC members are not permanent members of staff. We consider that this is a requirement of the regulations. We will thus have to see if the GAC will function as constructively in 2012 as it has generally functioned in recent years.

The members of the GAC nominated by the CSC.