

LATERAL ENTRY

It has been a while since the last PAFSO Update and in the interval there have been many challenges facing the Foreign Service Group. This Update will focus on the critical shortage of experienced FS officers and DFAIT's plans to address this issue. It will also focus on other initiatives that have an impact on the preservation of the Foreign Service as an occupational group and a separate career stream. The PAFSO position is clearly outlined in this Update – we welcome your comments.

In the coming weeks the PAFSO Update will focus on the departments' and Treasury Board's plans to restructure the Foreign Service and PAFSO's views on the restructuring process. In the November PAFSO Update we will be reporting on collective bargaining.

Each of these Updates will have news of general interest including FSDP issues, FS-1 - FS-2 competition, FS-2 - EX competition, Federal Court Challenges, and adjudication decisions and FS spousal issues.

Lateral Entry - Foreign Affairs & International Trade (DFAIT)

It is that time of year again when members of the press call the PAFSO office to obtain its take on the anticipated number of political appointments to Head of Mission positions. Specifically, they want to know how these announcements will be perceived by the career diplomats as it would mean less opportunity for advancement to these positions. PAFSO explains that this was the only traditional Lateral Entry exercise into the Foreign Service. We point out that it is within the sole discretion of the Prime Minister to make this type of appointment and, with a few exceptions, Prime Ministers have been prudent in their selection of political appointees so as to not severely impair the number of career diplomat appointments.

Our main concern is not the political appointments to Head of Mission. The Foreign Service group and its integrity as a bargaining unit faces far more serious challenges, stemming from:

- DFAIT plans for a Lateral Entry promotion exercise at the senior levels of the FS group;
- the 2004 FS - EX promotion exercise;
- the FS Term Policy;
- the creation of separate rotational groups made up of CO and ES employees for headquarters assignments;
- the conversion of FS positions to other occupational groups (e.g. CO, ES, PM), because of a staffing crisis; and,
- the expansion of the Foreign Service to other departments but not an expansion of the FS group.

These are the initiatives that cause us greatest concern. The more important question is how do we address these challenges.

Lateral Entry Promotional Exercise at the Senior Working Levels FS Group

Discussions on this Lateral Entry exercise have been on again/off again with DFAIT over the past two years. In the meantime, DFAIT continues to convert FS positions to other non-rotational groups, without consultation. This often results in assignments abroad and cross-postings for these employees to FS positions.

The need for a Lateral Entry exercise is not questioned by PAFSO. It is necessary to protect the integrity of the FS group, to deal with what DFAIT describes as a severe shortage of FS officers and to stop the hemorrhaging of the FS group by conversion to non-FS positions. In fact, DFAIT reported at one meeting, it needs to fill approximately 165 vacant FS positions. DFAIT's plans for a Lateral Entry promotional exercise is to recruit employees at the higher levels of other related occupational groups e.g. CO at levels 3 and 4, ES at levels 5, 6, 7, and PM 5 and PM 6, to do FS work. There is no dispute that DFAIT's recruitment plans are legitimate to address this issue and will result in highly qualified employees joining the Foreign Service. PAFSO does not claim a monopoly on the best and the brightest as reserved for individuals in the FS group. We recognize that the Public Service has many highly qualified individuals. However, the recruitment exercise and resulting appointments will result in some inequities and anomalies that PAFSO would like addressed.

The Inequities and Anomalies of a Lateral Entry Promotional Exercise (PAFSO Position)

Current FS-2 Employees

There is a significant number of FS-2 employees who have an average 12 years Foreign Service experience. As FS-2 level officers who are earning between \$68,000





- \$74,000, well below the current \$85,000 maximum, a number of these employees are currently assigned or have been assigned to Deputy Director or other senior positions within DFAIT. Salary in the FS group does not determine the level of complexity of the assignment. The level of complexity of the assignment is based on progressive experience and field of expertise.

Non-FS employees recruited into the FS group will not be placed on the FS-2 level pay grid based on years of Foreign Service experience. Their placement on the FS-2 salary grid will be determined by the Pay Regulation contained in the Terms and Conditions of Employment Policy governing the rate of pay or promotion which places the successful non-FS candidates on the FS-2 pay grid using a calculation based on their salary at the time of the Appointment. In other words, they come in with their current salaries (unless they are above the FS-2 maximum – then they take a pay cut to the maximum). In our view, the anticipated result will create a situation where employees with no or considerably less foreign service experience will be earning more than the FS officers who joined the Foreign Service at the traditional entry level as a career and who have been assigned to senior level positions. These FS-2 employees would not be eligible to compete in the competition because they are already qualified at this level. The proposed restructuring for the FS group does not address this issue and could possibly make the situation worse as DFAIT's intent is to recruit at the higher levels of work.

In order to address this anomaly, PAFSO has proposed to DFAIT that it accelerate the pay increments for existing FS-2 employees by giving them a two-step increase prior to August 1 and before the Lateral Entry exercise. We are told that the cost of this proposal would be one million dollars per increment. In PAFSO's view this may not address fully the anomaly created by this exercise, but it would be an indication to the current FS employees that the department recognizes the pay anomaly the exercise would create and

that experience and loyalty are important. It would also go a long way in addressing the potential morale problems the exercise may create. It would show the employees that the department appreciates the loyalty of the Foreign Service officers who joined the Foreign Service at the traditional entry level as a career path.

FSDP Program

Another anomaly created by a Lateral Entry exercise is what it says to the employees currently in the FSDP who have chosen the Foreign Service as a career path. At present count there are 168 DFAIT FSDP employees (out of a complement of 255) currently acting in FS-2 positions. Senior management in DFAIT has recognized that managers have been careful in selecting these employees for FS-2 assignments both in Canada and abroad and are confident that these employees can do the work at this level. PAFSO at one time proposed to DFAIT that these employees be given an opportunity to compete for these FS-2 positions in a separate competition run concurrently with the Lateral Entry exercise. The successful candidates would be chosen first from the FSDP competition, to ensure that they be given preference for the vacant FS-2 positions. However, since the introduction of the DFAIT Term Policy, PAFSO has taken a harder line on this issue, proposing the FSDP employees with three years employment be treated in principle the same as FS term employees.

FS Terms/DFAIT Term Policy

PAFSO also proposed that qualified FS terms be given a preference second only to the FSDP employees before any successful non-FS employee be given an appointment. However, since the introduction of the DFAIT Term policy, FS term employees (many are currently appointed to the FS-2 level) will be automatically confirmed at their current FS-2 pay level after three years of continuous employment without an assignment

abroad. These appointments have resulted in another form of Lateral Entry to indeterminate FS positions. In a number of cases these employees are at or near the top of the FS-2 salary band, i.e. \$85,000 and perform the same work assigned to FSDP employees. What message does this send to the FSDP employees?

DFAIT's Response on a Lateral Entry Promotional Exercise

Current FS-2 Employees

The department costed the accelerated increments (two) proposed by PAFSO at approximately one million dollars per increment. Its position was it couldn't afford it. It advised us that because of continuous program review it had to cut over 20 million dollars from its budget. In PAFSO's view, two million dollars is not a large sum of money in the larger picture. The cost could be far greater in terms of employee morale. For those who joined the Foreign Service at the entry level and have been loyal to the department, it will be another example of why so many of them answered the Public Service Employee survey question related to employee satisfaction in the negative. If the department was to recognize that it cannot hire others to do the work at the salaries it pays the FS, it should be prepared to pay the FS the full value for the work especially when the FS bring not only competence but international work experience to the table.

FSDP Employees

DFAIT is not prepared to treat the FSDP employees who have been acting in FS-2 positions the same as it is required to treat FS-2 term employees by appointing them to the FS-2 level on an indeterminate basis. Its reply is it is required by the Treasury Board Secretariat (TBS) Term Policy to appoint FS-2 term employees on an indeterminate basis at their current FS-2 pay level. It is not required to appoint FSDP employees who have three years in the



program the majority of them who are assigned to FS-2 positions to the FS-2 level on an indeterminate basis. If it was to do so, it would create a recruitment crisis at the entry level and the purpose of the Lateral Entry exercise was to recruit employees with experience at the more senior assignment levels.

Our view is that the FSDP employees have already been screened for rotational work through the recruitment process – something that was not required of the other group. The FSDP should not have to prove a second time that they have the competencies to be rotational Foreign Service officers.

The DFAIT position on a promotional Lateral Entry exercise has not changed since it was first proposed to PAFSO in 2001. It proposes to hold one competition for FS-2 positions and allow all the FSDP employees to compete but with no preference. It is not prepared to address any of the inequities or anomalies identified by PAFSO or accept any of the PAFSO proposals.

The Lateral Entry exercise has been placed on hold. PAFSO is very disappointed with this situation as we continue to face an erosion of FS positions which is impacting on the morale of the FS group. PAFSO's preference would be to resolve this issue NOW in order to provide some stability in the work force.

Other Forms of Lateral Entry

FS-EX Promotional Exercise 2004

In approving the most recent FS-EX promotional exercise the Executive Committee at DFAIT had seriously considered expanding the area of competition to include other occupational groups. This caused considerable debate among the Executive Committee and its advisors. In the end it was decided to leave the area of competition as it has been to FS officers to apply for the few EX-1 rotational positions. However, we were told that the area of competition may indeed be broadened in the 2004 promotional exercise. Opening

the FS-EX rotational competition to other occupational groups is an extreme form of Lateral Entry. FS employees are extremely competitive. The Public Service average for employees who successfully write the PSC 810 in Basket exam is 24%, while the average for the Foreign Service group is 76% – three times higher than the Public Service average. There is no doubt that the Foreign Service has been in a tail spin for the past decade or so and has only recently pulled itself out of a fatal dive, as the government realizes the real value of a Foreign Service. During the years of neglect, the numbers of the FS group shrunk, many pursuing careers in industry or other parts of the Public Service. The staffing freeze only made matters worse. What remained for the most part were the true believers that a career in the foreign service mattered. The message seems to be a career in the foreign service is not important. You can rise to the top without committing to a life of rotationality. In fact, you can join the foreign service at any time in your Public Service career – especially if you are interested in the more senior work assignments. If Lateral Entry exercises become the norm, it seriously undermines the need for an external recruitment development process. When you can recruit directly to the working level, it also means there is no particular incentive to be an FS and acquire experience.

CO-ES Pool - Conversion of FS Positions to CO/ES Group

The department has indicated it's plans to proceed with the creation of a CO/ES pool for headquarters positions. A number of these CO/ES positions are converted FS positions caused by the employer's inability to staff these positions with FS employees, because of the critical shortage of FS officers. PAFSO was never consulted on these conversions which over the past few years resulted in over 100 positions being converted. Some of these positions have been permanently removed from the FS pool, others are funded with

FS money. PAFSO's concern is that the creation of a headquarters pool will soon be followed by a rotational pool. **This will have the affect of reconverting these jobs back to the FS pool and is a form of Lateral Entry.** PAFSO would prefer that the department address, in positive terms, the anomalies expressed and proposals made by PAFSO in the Lateral Entry promotional exercise to provide the stability required in the Foreign Service and to bring these employees into the Foreign Service to ensure that we all play by the same rules.

The primary reason advanced by the department for both the Lateral Entry promotional exercise and the CO/ES pool initiatives is a severe shortage of experienced FS officers. In order to avoid this staffing crises in the future, the TBS will need to continue to address the salary issue both at the recruitment level and the working level, which has created a retention issue. The department and the TBS should take note that in the latest Public Service Employee Survey, the FS group was the least content. Seventy-five percent (75%) of FS officers in the survey said they are considering leaving the FS in the next year. This is a significant expression of displeasure regardless of whether these departures actually occur. The department should also increase its recruitment levels, look at past experience in retention issues and potential retention issues that may flow from FS restructuring to ensure that another staffing crisis is not allowed to develop.

Team Canada Inc. and Other Initiatives Impacting on the FS Group

The 1990s has witnessed the creation of a number of initiatives that have impacted on the Foreign Service in general and the Foreign Service group. Team Canada Inc. is an example of one of these initiatives. **DFAIT, in partnership with a growing number of OGDs have increased Canada's presence abroad and this has translated into more positions abroad.** The OGDs provided the founding for these



positions and understandably these departments insist that these funded positions be staffed by employees of the sponsoring department. To our knowledge, DFAIT has not opposed this arrangement. This has resulted in situations abroad where in some cases there are more OGD employees on secondments at the mission than there are DFAIT Canada-based Staff (CBS) employees. These initiatives have created a CBS Foreign Service much broader than what existed pre '90s, and at the same time created a larger community of interest with those employees who do the work, spilling over into the partnership departments. Little or no thought apparently was given to this expanded community of interest when these partnerships were created. This oversight has resulted in the current situation, in which non-FS employees are treated more favorably in the assignment process, without having to commit to rotationality as a term and condition of employment. It should be clear that PAFSO is not suggesting that these employees lack the qualifications to do the work. We are concerned with the process.

PAFSO has been successful in convincing both DFAIT and CIC that employees on secondment agreements both from within and outside the department whose substantive positions had a lower maximum than the FS-2 maximum were in fact on an acting FS assignment/appointment and would be governed by the FS collective agreement for the duration of the assignment. The departments have not conceded that "seconded employees" who have a substantive position with a higher maximum than the FS-2 salary will be governed by the FS collective agreement for the duration of the assignment. This issue will be heard by the PSSRB in the fall.

However, these initiatives and our challenge of bargaining unit status for these "seconded employees" for the duration of the assignment only partially addresses the issue. It doesn't address the unfairness resulting from the assignment process or that this initiative is again a form of Lateral Entry to the FS group albeit on a tempo-

rary basis or that it has created a double standard for assignments. This situation coupled with the lack of transparency in the department's assignment process of its own employees has only exacerbated the frustrations of the FS group.

DFAIT is on record as saying that FS officers will be given preference for all headquarters and overseas assignments unless the assignment required specialized qualifications not available within the FS group. This commitment is not being honored by the department. One of the reasons is because it can't sell this to the OGDs who fund these positions abroad (or as mentioned earlier there is simply not enough FSs available). As a result of this failure, OGD employees are offered postings that are not open to FS officers. Never mind a preference, the FS officer cannot even compete for these positions. This unfairness is exacerbated by the fact that the FS officer accepts as a condition of employment the rotational nature of the career Foreign Service and can be directed to report to any one of Canada's 162 missions abroad. The OGD employees have no such commitment. These employees can pick and choose from among the more sought after assignments and, in a growing number of cases, be cross-posted.

PAFSO is of the view that assignments involving OGDs fall outside the current Public Service Commission Exclusion Order that only allows DFAIT and CIC to make assignments abroad from its own employee complement. DFAIT is also in breach of this Exclusion Order by using term employees for positions abroad. PAFSO has not filed a complaint with the PSC because in our view it will not resolve the issue and could jeopardize, temporarily or otherwise, these initiatives. The preferred solution would be to sit with the department to seek a resolution that would be acceptable to all parties. What is clear is there doesn't appear to be any consideration of what impact these initiatives would have on the FS group and that these initiatives have resulted in an expanded community of interest with employees of

the OGDs. No one is suggesting that a large majority of these employees are not qualified. What they are saying is a large majority of FS officers with considerable Foreign Services experience are being overlooked in the process. To date there has been NO consultation.

Conclusion

The above initiatives have produced two playing fields for employees engaged in the work of the foreign service, one with more favourable rules than the other. It is in the interest of both the employer and PAFSO representing the interests of the employees to find a solution that will create a level playing field for all employees engaged in the work of the foreign service. The current situation lacks transparency and fairness – two of the most important values identified for those working in the Public Service.

Our goal is to get to a happier, more productive and more sustainable work situation. We do not think that the current situation of different pay for the same work, different rules and criteria for assignments and postings and training and recruitment, depending on the occupational group, to do essentially the same FS work, is sustainable. Hence we support initiatives, including a Lateral Entry exercise, that bring one set of rules to all. Addressing the pay and other inequities that would result to the FS group from a Lateral Entry exercise is critical for the success of this endeavour. Two million dollars to bring the pay of the FS-2 employees in line with the lateral entries and extending no less favourable terms to the FSDP than are provided to the term employees from the Term Policy do not seem to us to be unreasonable or exorbitant criteria to allow us all to move forward together.

We would welcome your views on the problems and proposed solutions contained in this article. ■

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