

## ARTICLE 17(3)

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Notes

## ARTICLE 17(3)

### TEXT OF ARTICLE 17(3)

The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

### INTRODUCTORY NOTE

1. The structure of this study follows that of Article 17(3) in the *Repertory, Supplement No. 4*. The emphasis is on interpretation of Article 17(3) and/or new and important applications of it.
2. Consideration by the General Assembly at its twenty-fifth to thirty-third sessions of the question of administrative and budgetary co-ordination of the United Nations with the specialized agencies and the International Atomic Energy Agency followed the practice evolved in previous years.<sup>1</sup> Reports were submitted at each session by the Advisory Committee on Administrative and Budgetary Questions<sup>2</sup> and the Assembly invited the attention of the agencies concerned to the reports and to the views expressed in the Fifth Committee.

### \*\*I. GENERAL SURVEY

#### II. ANALYTICAL SUMMARY OF PRACTICE

##### A. Nature and scope of the financial and budgetary arrangements with the specialized agencies and the International Atomic Energy Agency

3. During the period under review the scope of the financial and budgetary arrangements with the specialized agencies was affected by the addition of two new specialized agencies, namely: the World Intellectual Property Organisation (WIPO) and the International Fund for Agricultural Development (IFAD). At its 2319th plenary meeting, on 14 December 1974, the General Assembly, on the recommendation of the Fifth Committee, approved the administrative and budgetary provisions of the draft Agreement between the United Nations and WIPO.<sup>3</sup>

4. Likewise, in decision 32/428A, taken by the General Assembly at its 103rd plenary meeting on 15 December 1977, the Assembly, on the recommendation of the Fifth Committee, approved articles VII, VIII and IX of the draft Agreement between the United Nations and IFAD. These articles deal with budgetary and financial arrangements, administrative co-operation and personnel arrangements respectively. With regard to personnel arrangements, as contained in article IX of the Agreement, the Advisory Committee on Administrative and Budgetary Questions in its report on the draft Agreement (A/32/325), stated its opinion that these provisions were not sufficiently clear on the question of full participation by IFAD in the common system of the United Nations and the specialized agencies. In the opinion of the Advisory Committee, the reference in article IX, paragraph 1 of the draft Agreement for co-operation with the International Civil Service Commission left uncertain whether IFAD actually intended to accept the Statute of the ICSC, since that Statute made no provision for partial acceptance, nor did it include procedures by which a specialized agency might merely "co-operate" with the Commission. The question had never arisen before since previous relationship agreements had all been entered into prior to the establishment of the ICSC. In resolution 32/102, the General

Assembly, taking note of the Advisory Committee's report, invited IFAD, once constituted, to participate in the United Nations common system for the regulation and co-ordination of the conditions of the employment of staff and, in particular, to accept the Statute of the ICSC. As at 31 December 1978, the Commission's Statute had not been accepted by IFAD.

5. The establishment of the United Nations University by General Assembly resolution 2951 (XXVII) also gave rise to implications for the nature and scope of the financial and budgetary arrangements with the specialized agencies. According to the charter of the University, which was adopted by the General Assembly in resolution 3081 (XXVIII), the University functions under the joint sponsorship of the United Nations and UNESCO. Article IX of the charter provides that the United Nations shall perform all necessary financial and accounting functions for the University, that the financial regulations and rules of the United Nations shall apply to the University, and that the University's budget estimates, together with the comments of the Advisory Committee on Administrative and Budgetary Questions, shall be submitted to the University Council for approval. Once approved, the budget is to be transmitted to the General Assembly together with the report of the Council. Thus, although the University is jointly sponsored by the United Nations and UNESCO, the United Nations plays the major role in financial and budgetary matters.

6. The nature and scope of the financial and budgetary arrangements between the United Nations and IAEA was considerably expanded by the establishment of the Vienna International Centre, in which both would be accommodated. A memorandum of understanding signed between the Secretary-General of the United Nations, the Director-General of IAEA, and the Executive Director of UNIDO established the principle of allocated responsibility by which the various common services were assigned to the organizations on a cost-sharing basis. The financial arrangements provide for IAEA to reimburse the United Nations for its

share of the common services carried out by United Nations/UNIDO; similarly the United Nations reimburses IAEA for an agreed share of the common services supplied by it. The memorandum of understanding is referred to in the Secretary-General's report on accommodation in Vienna to the thirty-third session of the General Assembly (A/C.5/33/39). This report was noted by the Assembly in resolution 33/181.

## B. The phrase "administrative budgets" of specialized agencies

### \*\*1. TRANSMISSION OF THE BUDGETS OF SPECIALIZED AGENCIES TO THE UNITED NATIONS

### \*\*2. CONSULTATION IN THE PREPARATION OF THE BUDGETS

### 3. CO-ORDINATION OF THE FORM OF THE BUDGET

7. The Economic and Social Council, in its resolution 2098 III (LXIII), requested the Administrative Committee on Co-ordination to specify the obstacles involved in further harmonizing programme budgets and medium-term plans and to give its views on the potential utility of a compendium of introductions to the programme budgets of agencies and organizations within the United Nations system, with a view to developing for Member States instruments for promoting United Nations system-wide harmonization of programme budgets and medium-term planning, as well as for providing a concise and informative survey of programmes and policy objectives pursued by the United Nations system. The response of the Administrative Committee on Co-ordination to resolution 2098 III (LXIII) is contained in part three of the annual report of the Advisory Committee on Co-ordination for 1977/78 (E/1978/43/Add.2).

## C. Nature and scope of examination of administrative budgets

[This topic is covered in paragraph 19 below.]

## D. Financial and budgetary arrangements—analysis of recommendations made by the General Assembly to the specialized agencies

### 1. ADOPTION OF COMMON FINANCIAL AND ADMINISTRATIVE REGULATIONS

#### a. *Common financial regulations*

8. In a report to the General Assembly at its thirty-second session on the revision of the Financial Regulations of the United Nations (A/C.5/32/34), the Secretary-General transmitted proposals of the United Nations Board of Auditors for changes in the Financial Regulations described as "Additional Terms of Reference Governing the Audit of the United Nations". The Board wished to eliminate the "specific wording of the audit opinion" and replace it with a statement of the matters on which the Board of Auditors was to express an opinion. The Board also sought to add two matters on which the auditors would be required to express an opinion, namely: that the financial statements were in accordance with the stated accounting principles of the Organization and that these principles had been consistently applied. In its related report<sup>4</sup> the Advisory Committee on Administrative and Budgetary Questions stated that it had been informed that the proposals had been reviewed by the Panel of External Auditors at its twentieth regular session (Geneva, 18-20 October 1978) and that the Panel maintained its position that it had no objection to the proposed changes in the audit opinion, if applied to the audit responsibilities of the United Nations Board of Auditors. However, the Panel did not agree that the

proposed changes were appropriate to the audit responsibilities of all the Panel members at that time. The Advisory Committee went on to state that it had been further informed that, under the circumstances and in the interests of maintaining uniformity, the United Nations Board of Auditors had decided not to press its proposals for a change in the form of the audit opinion.

#### b. *Common staff regulation and salary system*

9. The major development in this area was the establishment of the International Civil Service Commission (ICSC) by the General Assembly at its twenty-seventh session (resolution 3042 (XXVII)). In its resolution 3357 (XXIX), the General Assembly approved the Statute of the ICSC as set out in the annex to that resolution. As provided in chapter I of the Statute, the Commission was set up "for the regulation and co-ordination of the conditions of service of the United Nations common system". Further, "the Commission shall perform its functions in respect of the United Nations and of those specialized agencies and other international organizations which participate in the United Nations common system and which accept the present statute". Administrative, budgetary, and financial arrangements are contained in chapter IV of the Statute. Those arrangements provided that the conditions of service of the Chairman and the Vice-Chairman of the Commission would be determined by the General Assembly; that the staff of the Commission would be regarded for administrative purposes as officials of the United Nations; that the budget of the Commission would be included in the regular budget of the United Nations, the estimates having been established by the Secretary-General after consultation with the Administrative Committee on Co-ordination on the basis of proposals by the Commission; and that expenditure on the Commission would be shared by the organizations in a manner to be agreed by them.

10. Another action involving common staff regulations and the salary system was the adoption by the General Assembly of resolution 33/119. In that resolution the Assembly reaffirmed the objective of "the development of a single unified international civil service through the application of common personnel standards, methods and arrangements. The Assembly viewed "with deep concern certain discordant actions taken unilaterally by several of the organizations in recent months". In section I of the resolution the Assembly urged "the competent authorities of all organizations of the United Nations common system to refrain from actions which do not contribute to the strengthening and development of the common system" and requested "the Secretary-General and his colleagues in the Administrative Committee on Co-ordination to study the feasibility of establishing a single administrative tribunal for the entire common system and to report to the General Assembly at its thirty-fourth session".

11. According to a report submitted by the Secretary-General to the thirty-fourth session of the General Assembly, "the records of the Fifth Committee leading to the formulation of resolution 33/119 seem to indicate that the request for a feasibility study was largely prompted by concern lest divergent decisions by the two existing Administrative Tribunals, those of the United Nations (UNAT) and of the International Labour Organisation (ILOAT), could adversely affect the unity of the conditions of service in the common system. In particular, a number of references were made<sup>5</sup> to action in respect of General Service category salaries in Geneva taken, consequent to an advisory opinion by the members of ILOAT, by the Governing Body of ILO, which action was at variance with that taken by the Secretary-General of the United Nations, with the approval of the General Assembly, which was later upheld in a contentious case in a UNAT judgement".<sup>6</sup>

c. *Common services*

12. The most significant developments in arrangements for common services were in the field of electronic data processing. Acting on the basis of reports by the Auditor-General of Canada on electronic data processing in the United Nations family of organizations<sup>7</sup> and the related report by the Advisory Committee on Administrative and Budgetary Questions,<sup>8</sup> the Assembly, in resolution 2741 (XXV), authorised the Secretary-General, subject to appropriate action by the legislative bodies of UNDP and WHO, to proceed with the implementation of proposals for the United Nations to participate with WHO and UNDP and other agencies which might later agree in the establishment of a separate data processing facility in Geneva, to be known as the International Computing Centre (ICC) and to participate with other agencies in the Inter-Organization Board for information systems and related activities (IOB). The resolution invited all other agencies in the United Nations system to "consider seriously" the possibility of joining the ICC. With regard to the IOB the Assembly requested "the Secretary-General, in his capacity as Chairman of the Administrative Committee on Co-ordination, to enter into consultations with a view to reaching final agreement at the secretariat level on the terms of reference and administrative arrangements" for the proposed IOB.

13. Both the ICC and the IOB continued to function during the period under review. As at 31 December 1978 the following agencies were participating in the ICC: the United Nations, WHO, UNDP, UNICEF, ILO, WMO, UNRISD, UNEP, GATT, WIPO, IBE/UNESCO and ITC. The following agencies participated in the IOB: United Nations, UNDP, ILO, FAO, WFP, UNESCO, WHO, UPU, ITU, WMO, IMCO and WIPO. New terms of reference for the IOB were approved by the Administrative Committee on Co-ordination in 1976. These terms stated that the Board was to co-ordinate the development of compatible information systems, particularly for the purpose of supporting economic and social development, and to undertake, promote or stimulate the joint development, under its auspices, of common information systems to meet the common needs of the participating organizations. In particular the terms of reference of IOB specify that "to ensure proper co-ordination in the development of information systems with a view to maximizing their benefits for the activities of the United Nations family and to avoid duplication of efforts", each participating organization "shall inform the Board" of its plans to develop systems which can be used by other organizations for similar purposes, or systems which are of interest to other organizations either in terms of system design or in terms of information produced or both (E/AC.51/90).

14. Starting with the estimates for 1978, the ICC budget has been submitted for the scrutiny and approval of the General Assembly pursuant to section III, paragraph 3 of Assembly resolution 31/208. The United Nations share of the budget of ICC is reflected in the United Nations programme budget. The budget of IOB is adopted by the Administrative Committee on Co-ordination, the United Nations share being reflected in the United Nations programme budget.

2. ESTABLISHMENT OF A JOINT AUDIT PROCEDURE

[This topic is covered in paragraph 7 above.]

\*\*3. DEVELOPMENT OF A COMMON FORM OF THE BUDGET

4. CONSIDERATION OF A CONSOLIDATED BUDGET

5. ESTABLISHMENT OF A COMMON APPROACH TOWARDS THE FINANCING OF THE BUDGETS OF THE SPECIALIZED AGENCIES

15. At its twenty-seventh session the General Assembly, in resolution 2961 B (XXVII), decided that:

(a) As a matter of principle, the maximum contribution of any one Member State to the ordinary expenses of the United Nations shall not exceed 25 per cent of the total;

(b) In preparing scales of assessment for future years, the Committee on Contributions shall implement subparagraph (a) above as soon as practicable so as to reduce to 25 per cent the percentage contribution of the Member State paying the maximum contribution, utilizing for this purpose to the extent necessary:

- (i) The percentage contributions of any newly admitted Member States immediately upon their admission;
- (ii) The normal triennial increase in the percentage contributions of Member States resulting from increases in their national incomes;
- (iii) Notwithstanding subparagraph (b) above, the percentage contribution of Member States shall not in any case in the United Nations, the specialized agencies or the International Atomic Energy Agency be increased as a consequence of the present resolution.

6. ESTABLISHMENT OF A JOINT STAFF PENSION FUND AND A COMMON SYSTEM OF SOCIAL SECURITY FOR STAFF

16. Though not directly related to the establishment of the Pension Fund, General Assembly resolution 31/197 can be considered as a broadening of the Assembly's authority with regard to the operation of the Fund. In that resolution the Assembly requested the Secretary-General, "in consultation with the Investments Committee, which is being enlarged at the current session to reflect wider and more equitable geographical distribution, to ensure that the resources which the United Nations Joint Staff Pension Fund holds invested in shares of transnational corporations are invested on safe and profitable terms and, to the greatest extent practicable, in sound investments in developing countries."

7. DEVELOPMENT OF PRIORITIES WITH A VIEW TO THE CONCENTRATION OF EFFORTS AND RESOURCES

17. Decision-making in this area did not specifically involve financial and budgetary arrangements or the examination of the administrative budgets of the specialized agencies. Two resolutions of the Economic and Social Council, however, can be considered related in general to inter-agency co-operation for the effective utilization of resources, and the achievement of such co-operation could conceivably involve a need for financial and budgetary arrangements. In operative paragraph 3 of resolution 1547 (XLIX) the Council instructed the Committee for Programme and Co-ordination to "review the sphere of activities and competence of the Administrative Committee on Co-ordination in the light of the relevant discussion in the Council so that the Council may achieve more effective co-ordination of the social, economic and technical activities of the United Nations system, and to submit recommendations to the Council at its fifty-first session". In addition to suggesting measures for improving interorganization co-ordination, the resolution invited the governing bodies of the organizations to consider making arrangements for studies on the use of their secretariat staff, as had been done in the United Nations itself. It recommended that the Secretary-General and the executive heads take every possible action to ensure maximum utilization of

their personnel. In operative paragraphs 1 and 2 of resolution 1643 (LI) the Economic and Social Council invited "the Administrative Committee on Co-ordination to maintain under constant review measures to be suggested to the Economic and Social Council, in order to ensure the fullest and most effective implementation of the agreements entered into between the United Nations, the specialized agencies, and the International Atomic Energy Agency;" and requested "the Committee to give priority to the study of uniform and co-ordinated methods which would enable the United Nations system to achieve greater productivity and efficiency through economies of scale and related advantages".

**\*\*8. CO-ORDINATION OF BUDGET PROCEDURES IN RELATION TO TECHNICAL ASSISTANCE AND OTHER EXTRA-BUDGETARY PROGRAMMES INVOLVING VOLUNTARY CONTRIBUTIONS**

**9. OTHER RECOMMENDATIONS**

18. In this category the major recommendation made by the General Assembly to the specialized agencies involved the Joint Inspection Unit (JIU). Although the JIU was created on an experimental basis under General Assembly resolution 2150 (XXI) and extended thereafter under Assembly resolutions 2735 A (XXV) and 2924 B (XXVII), its establishment on a regular basis came about as the result of Assembly resolution 31/192 which approved a Statute for the JIU. Article 1 of the Statute provides that "the Unit shall perform its functions in respect of and shall be responsible to the General Assembly and similarly to the competent legislative organs of those specialized agencies and other international organizations within the United Nations system which accept the present Statute (all of which shall hereinafter be referred to as the organizations)", and that "the Unit shall be a subsidiary organ of the legislative bodies of the organizations". Article 5 of the Statute specifies the functions of the Unit as follows:

"1. The Inspectors shall have the broadest powers of investigation in all matters having a bearing on the efficiency of the services and the proper use of funds.

"2. They shall provide an independent view through inspection and evaluation aimed at improving management and methods and at achieving greater co-ordination between organizations.

"3. The Unit shall satisfy itself that the activities undertaken by the organizations are carried out in the most economical manner and that the optimum use is made of resources available for carrying out these activities.

"4. Without prejudice to the principle that external evaluation remains the responsibility of appropriate inter-governmental bodies, the Unit, with due regard to its other responsibilities, may assist them in carrying out their responsibilities for external evaluation of programmes and activities. On its own initiative or at the request of the executive heads, the Unit may also advise organizations on their methods for internal evaluation, periodically assess these methods and make *ad hoc* evaluations of programmes and activities.

"5. The Inspectors may propose reforms or make recommendations they deem necessary to the competent organs of the organizations. They shall not, however, have the power of decision, nor shall they interfere in the operations of the services they inspect."

As for budgetary and financial arrangements, Article 20 of the Statute provides:

"1. The budget of the Unit shall be included in the regular budget of the United Nations. The budget estimates shall be established by the Secretary-General after consultation with the Administrative Committee on Co-ordination on the basis of proposals made by the Unit. The

budget estimates shall be submitted to the General Assembly together with the report thereon by the Administrative Committee on Co-ordination and with the comments and recommendations of the Advisory Committee on Administrative and Budgetary Questions. The Unit shall be invited to be represented at meetings when its budget estimates are being discussed.

"2. The expenditures of the Unit shall be shared by the participating organizations as agreed by them."

**E. Role of the Advisory Committee on Administrative and Budgetary Questions and of the Economic and Social Council**

19. The role of the Advisory Committee on Administrative and Budgetary Questions with regard to administrative and budgetary co-ordination with the specialized agencies and IAEA changed somewhat during the period under review. In its report on this subject to the thirtieth session of the General Assembly (A/10360), the Advisory Committee stated the following:

"11. In the Advisory Committee's opinion, it would be difficult—if not impossible—for the General Assembly to make recommendations on points of detail in the agency budgets. The General Assembly lacks the time for such an in-depth analysis, but, even if time were available, such an analysis would tend to duplicate discussions in the agencies concerned. By contrast, there exist administrative and budgetary issues of broader applicability—e.g. question of methodology—which are now tackled piecemeal by the agencies, and in respect of which central guidance by the General Assembly is desirable in the interest of the system as a whole.

"12. The Advisory Committee believes that it can best discharge its responsibilities in the area of administrative and budgetary co-ordination if it tries to identify such issues of broader applicability and bring them to the attention of the General Assembly, together with appropriate recommendations. While the Committee would continue to provide the Assembly with factual information on the budgets of the agencies . . . the degree of detail could be reduced. Moreover, with the adoption of biennial budgeting by many organizations, it may be possible to dispense with annual reporting to the Assembly on the budgets of the agencies.

"13. The task of identifying problem areas cannot be carried out unilaterally. It calls for an exchange of views involving all the members of the United Nations system. Accordingly, the Advisory Committee invited the representatives of the specialized agencies to share their views with the Committee. While not all the representatives responded to the invitation, those who did gave the Committee a better insight into some of the problem areas of interagency co-ordination. In several cases the issues involved relate primarily to a division of responsibility for programme areas, and are thus within the competence of the Economic and Social Council rather than the Fifth Committee. Others, however, fall within the field of administrative and budgetary co-ordination."

The Advisory Committee gave a partial listing of such questions as follows: interaction between activities financed under the regular budget and those financed from voluntary funds; administrative and management improvements; personnel questions; and budgetary questions. The Advisory Committee also stated that "for practical reasons, the United Nations General Assembly cannot make recommendations to the agencies on the details of their budgets. On the other hand, the fact that the Assembly holds its sessions later in the year than the assemblies or general conferences of the specialized agencies enables it to have the most up-to-date infor-

mation on which to base budgetary assumptions. In pursuance of its mandate under Article 17, paragraph 3, of the Charter, the General Assembly can, if it so desires, make recommendations to the agencies with regard to such assumptions. Similarly, the General Assembly may wish to make recommendations on aspects of budgetary methodologies (uniform ways of calculating growth; use of full budgeting or semi-full budgeting; methodologies for the apportionment of indirect costs etc.)”.

20. A major task assigned to the Advisory Committee during the period under review was in the area of electronic data processing (EDP). In resolution 31/94 B the General Assembly requested the Advisory Committee “to provide policy advice and recommendations on the administrative co-ordination of electronic data processing and information systems in the United Nations organizations; in carrying out this task, the Advisory Committee should identify and focus on major issues that will help to increase the benefit from the expanding applications of electronic data processing and information systems, and should also examine methods and criteria for: (a) assessing the utility of existing and proposed information systems; (b) co-ordinating and harmonizing existing and planned information systems; (c) estimating costs for establishing and operating the systems; (d) considering any other administrative co-ordination issues, including policies concerning acquisition and utilization of computer hardware, that, in the opinion of the Advisory Committee or the Administrative Committee on Co-ordination, require the consideration of Member States”. In response to this request the Advisory Committee submitted a report on administrative co-ordination of electronic data processing and information systems to the General Assembly at its thirty-third session (A/33/304).

21. The Statute of the ICSC, adopted by the General Assembly at its twenty-ninth session in resolution 3357 (XXIX) (see para. 8 above), gives a specific role to the Advisory Committee on Administrative and Budgetary Questions in the appointment of Members of the Commission. Article 4 of the Statute provides:

“1. After appropriate consultations with Member States, with the executive heads of the other organizations and with staff representatives, the Secretary-General, in his capacity as Chairman of the Administrative Committee on Co-ordination, shall compile a list of candidates for appointment as Chairman, Vice-Chairman and members of the Commission and shall consult with the Advisory Committee on Administrative and Budgetary Questions before consideration and decision by the General Assembly.

“2. In the same way, the names of candidates shall be submitted to the General Assembly to replace members

whose terms of office have expired or who have resigned or otherwise ceased to be available. In addition, since the budget of the Commission is included in the regular budget of the United Nations (see para. 8 above), it is subject to the examination which the Advisory Committee gives to the regular budget.”

22. The Statute of the JIU, adopted by the General Assembly at its thirty-first session in resolution 31/192, provides in Article 11(d) that “the ACABQ shall receive all reports [of the JIU] for information. As it deems appropriate, the Advisory Committee may choose to issue comments and observations on any of the reports which fall within its competence”.

23. As with the ICSC, the budget of the JIU is included in the regular budget of the United Nations; as such it is subject to examination by the ACABQ.

24. The Charter of the United Nations University, in article IX, paragraph 7, adopted in General Assembly resolution 3081 (XXVIII) (see para. 5 above) provides for the Advisory Committee on Administrative and Budgetary Questions to review the University budget estimates.

#### F. The powers of the General Assembly under Article 17(3)

25. Questions of interpretation of the powers of the General Assembly under Article 17(3) did not arise during the period under review. Financial and budgetary arrangements with the specialized agencies were entered into and applied for a variety of new and different activities as the discussions above of the statutes of the ICSC, the JIU, the United Nations University and the establishment of the ICC and the IOB would indicate.

#### NOTES

<sup>1</sup> See *Repertory* and its *Supplements Nos. 1, 2, 3 and 4*, under Article 17(3).

<sup>2</sup> Except the twenty-eighth session. The report prepared for that session was in fact submitted for consideration to the twenty-ninth session along with the regular report for that session.

<sup>3</sup> G A (29), Other decisions, a.i. 75, p. 138

<sup>4</sup> G A (33), Supplement No. 7 (A/33/7/Add.11), paras. 8 and 9.

<sup>5</sup> G A (33), 5th Com., mtgs.: 37th, para. 68; 40th, para. 35; 41st, paras. 41, 57; 56th, para. 71.

<sup>6</sup> UNAT Judgement No. 236 (*Belchamber v. Secretary-General of the United Nations*).

<sup>7</sup> A/8072 (mimeographed).

<sup>8</sup> G A (25), *Suppl. No. 8 A*, A/8008/Add.2.