

## ARTICLE 63

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## TEXT OF ARTICLE 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

## INTRODUCTORY NOTE

1. The structure of this study is the same as that of Article 63 in the *Repertory* and its *Supplements Nos. 1 and 2*.

2. The former headings have been maintained with the exception of those under II B and II C. Under II B, only the major heading has been kept, since the material on the terms of agreements between the United Nations and the specialized agencies included in this *Supplement* required treatment under only two of the previously used subheadings, namely Liaison and Revision; the material in that section was therefore arranged under the organizations to which it referred. Similarly, under II C 4, "Recommendations to Members", the former subheadings have been omitted and any relevant material has been dealt with under the major heading of II C 4. On the other hand, a new subheading "*d.* Co-ordination of assistance in cases of natural disaster", has been added under II C 1.

## I. GENERAL SURVEY

### A. Conclusion of the agreements with the specialized agencies

3. The International Development Association was brought into relationship with the United Nations on 27 March 1961 in accordance with the provisions of Article 63.<sup>1</sup>

### B. Terms of the agreements with the specialized agencies

4. A revision calling for the deletion of article 11 of the Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization (UNESCO), concerning consultations with the Economic and Social Council on

<sup>1</sup> E S C resolution 807 (XXX) and G A resolution 1594 (XV); United Nations *Treaty Series*, vol. 394, No. 582, part II.

applications for membership in that organization by States not Members of the United Nations, was approved by the General Assembly<sup>2</sup>.

### C. Review of implementation of the agreements with the specialized agencies

5. At its thirty-second session, the Council confirmed<sup>3</sup> the understanding by the specialized agencies and the International Atomic Energy Agency (IAEA) that the agreements between members of the United Nations system should apply in respect of relationships at the regional no less than at the headquarters level.<sup>4</sup>

<sup>2</sup> G A resolution 1786 (XVII).

<sup>3</sup> E S C resolution 823 (XXXII).

<sup>4</sup> See para. 19 below.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. The negotiation of, and the entering into, agreements with the specialized agencies

6. In December 1959, the General Assembly welcomed<sup>5</sup> the decision of the Board of Governors of

<sup>5</sup> G A resolution 1420 (XIV).

the International Bank for Reconstruction and Development (IBRD) to establish an International Development Association (IDA) and, *inter alia*, expressed the hope that adequate provisions would be made and appropriate procedures adopted for a close working relationship and effective co-ordi-

nation and consultation between IDA and the United Nations.

7. At its resumed thirtieth session in December 1960, the Council, noting that the Agreement establishing IDA had entered into force, requested<sup>6</sup> the President of the Economic and Social Council to negotiate, with the appropriate authorities of IDA, an agreement in order to bring that organization into relationship with the United Nations<sup>6</sup>. The Council subsequently considered<sup>7</sup> the draft Agreement and recommended<sup>8</sup> that the General Assembly approve it. The Agreement was approved by the Board of Governors of IDA on 24 February 1961, and by the General Assembly<sup>9</sup> on 27 March 1961, when it came into force.

## B. Terms of the agreements with the specialized agencies

### 1. THE INTERNATIONAL DEVELOPMENT ASSOCIATION

8. The Agreement between the United Nations and IDA differed from the agreements concluded by the United Nations<sup>10</sup> in the past in consisting, in addition to the preamble, of only three articles which served to indicate that, with the exception of the matters of liaison, the terms of the agreement were the same as those of the Agreement between the United Nations and IBRD.

9. The preamble referred to both Articles 57 and 58 of the Charter. With reference to Article 58, it stated "whereas... Article 58 provides that the United Nations shall make recommendations for the co-ordination of the policies and activities of the specialized agencies...". In the course of the discussion<sup>11</sup> on the Agreement thus negotiated, the President of the Council drew attention to the fact that the proposed agreements stipulated that the Agreement between the United Nations and IBRD should, *mutatis mutandis*, govern the relationship between the United Nations and IDA. He further stated that during his negotiations with the representative of IDA it had been clearly understood between them that Article 58 of the Charter applied to the relationship between the United Nations and IDA. He had considered that the reference to Article 58 in the preamble to the proposed agreement was sufficient since, among other reasons, the last sentence of article IV of the Agreement between the United Nations and IBRD made the applicability of Article 58 quite clear.

10. Article I of the Agreement stated that: "The United Nations and the Association shall have the same rights and obligations towards each other as the United Nations and the Bank have under the Agreement approved by the General Assembly of

the United Nations on 15 November 1947 and by the Board of Governors of the Bank on 16 September 1947, which Agreement shall *mutatis mutandis* govern the relationship between the United Nations and the Association".

11. The Agreement with IBRD did not specify the kind of administrative machinery to be established for the purpose of liaison between the United Nations and the specialized agency.<sup>12</sup> The Agreement with IDA, however, provided specifically in article II for a liaison committee consisting of the Secretary-General of the United Nations and the President of the Bank and of the Association, or their representatives. The Executive Chairman of the United Nations Technical Assistance Board and the Managing Director of the Special Fund, or their representatives, were invited to join this Committee as full participants. The article further provided that the Committee should meet not less often than four times a year so that the participants could keep each other fully informed, and consult each other as required, on their current programmes and future plans in areas of common interest in order to ensure co-ordination of their technical assistance and other development activities.

12. Article III of the Agreement with IDA concerned its entry into force and followed the pattern of all such agreements between the United Nations and the specialized agencies.

### 2. THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

13. During the period under review, in pursuance of article II of the Agreement between the United Nations and UNESCO, that specialized agency transmitted to the Economic and Social Council an application regarding the admission of Kuwait. At its thirtieth session, the Council informed<sup>13</sup> UNESCO that it had no objection to the admission of Kuwait to the agency.

14. At its thirty-third session the Council approved<sup>14</sup> the suggestion of UNESCO of an amendment calling for the deletion of article II of the Agreement between the United Nations and UNESCO, the adoption of which would eliminate the need for UNESCO to consult with the Council on applications of States not Members of the United Nations for membership in that Organization. The Council recommended<sup>14</sup> that the General Assembly approve the amendment and the Assembly did so<sup>15</sup> at its seventeenth session.

## C. Co-ordination of the activities of the specialized agencies

### 1. RECOMMENDATIONS TO THE SPECIALIZED AGENCIES

#### a. Priorities and concentration of effort and resources

15. The establishment of priorities and a concentration of effort upon areas considered of parti-

<sup>6</sup> E S C resolution 805 (XXX).

<sup>7</sup> E S C (XXX), 1136th mtg., paras. 13-26.

<sup>8</sup> E S C resolution 807 (XXX); see annex to this resolution for the draft agreement.

<sup>9</sup> G A resolution 1594 (XV).

<sup>10</sup> See, for example, *Repertory, Supplement No. 2*, vol. III, under Article 63, section II B, on the terms of the Agreement between the United Nations and the International Finance Corporation.

<sup>11</sup> E S C (XXX), 1136th mtg., paras. 13-26.

<sup>12</sup> See *Repertory*, vol. III, under Article 63, paras. 223-224.

<sup>13</sup> E S C resolution 774 (XXX).

<sup>14</sup> E S C resolution 865 (XXXIII).

<sup>15</sup> G A resolution 1786 (XVII).

cular importance for the economic and social development of the economically less developed countries were among the main underlying objectives guiding the co-ordination efforts of the United Nations organs within the framework of the Development Decade. In that context, as the Council explained in the annex to Council resolution 801 (XXX), rationalization rather than financial savings *per se* was the goal aimed at.<sup>16</sup>

16. At its thirty-fourth session, the Council, after commenting on the importance of concerted action within the United Nations family of organizations for the fulfilment of the goals of the Development Decade, and expressing the belief that co-ordination of activities would be facilitated if the efforts of the United Nations and its related agencies were further concentrated upon selected areas of strategic importance, decided<sup>17</sup> to establish a special committee on co-ordination. Its function would be to keep under review the activities of the United Nations family of organizations and to consider, in consultation with them, priority areas or projects relating to the objectives of the United Nations Development Decade.<sup>18</sup> At the same session, the Council also adopted resolution 909 (XXXIV) on concentration of activities, rationalization of conference schedules, and co-ordination of survey missions; in Section I of that resolution, the Council stressed the necessity not only of eliminating duplication but of relating activities coherently and concentrating resources on areas in which the needs and opportunities for international action were greatest. The Council also invited the specialized agencies and IAEA to concentrate on activities of high priority and to eliminate "fringe projects" of limited value and effectiveness.

17. At its seventeenth session, the General Assembly, noting the above-mentioned actions by the Council, requested<sup>19</sup> it to devise a framework within which it could indicate the priorities to be accorded to United Nations programmes and projects in the economic, social and human rights fields, and to establish within this framework an order of priorities and to review them regularly.<sup>20</sup> The Council subsequently requested<sup>21</sup> the Administrative Committee on Co-ordination (ACC) to submit a draft framework of functional classifications for the activities of the United Nations system in the economic, social and human rights fields, possibly including their budget-

<sup>16</sup> The pertinent text of E S C resolution 801 (XXX), annex, para. 1, reads as follows: "The Council reiterates its agreement with the Secretary-General's statement that 'streamlining' is not designed primarily to bring about financial savings, but is a continuing process of detailed examination of the work programme with a view to bringing about the best use of the limited resources available, in the light of changing requirements".

<sup>17</sup> E S C resolution 920 (XXXIV).

<sup>18</sup> See also this *Supplement* under Article 58, paras. 10-11.

<sup>19</sup> G A resolution 1797 (XVII).

<sup>20</sup> See also G A resolution 2084 (XX) in which the Assembly addressed to the Secretary-General, the specialized agencies and IAEA a number of requests related to the United Nations Development Decade and to the goals, objectives and priorities established by the United Nations family in this connexion.

<sup>21</sup> E S C resolution 984 (XXXVI), section II, concerning the United Nations Development Decade.

ary implications.<sup>22</sup> In the same resolution, the Council reiterated its request to the Secretary-General and the executive heads of the agencies, when planning and implementing their programmes to take account of the priority areas in terms of activities, as suggested by the Special Committee on Co-ordination.

b. *Regional co-ordination*<sup>23</sup>

18. The increasing emphasis laid on decentralization of activities in the period under review led many of the United Nations organs to give greater attention to the problems connected with regional co-ordination and its institutional framework.

19. In response to a statement in the ACC report according to which "...the agreements between members of the United Nations family... the network of understandings which has been built upon them, and the resulting distribution of responsibilities... should in no way be affected by the measures in the direction of decentralization the United Nations itself may undertake",<sup>24</sup> the Economic and Social Council, at its thirty-second session, adopted resolution 823 (XXXII) in which it confirmed the understanding by the specialized agencies and IACA that the agreements between members of the United Nations system applied in respect of relationship at the regional no less than at the headquarters level. In the same resolution the Council requested the Secretary-General and the executive heads of the specialized agencies and IAEA, who in ACC had reported<sup>25</sup> on the close link which had been established in recent years between the regional economic commissions and the agencies in many areas of work, to ensure close regional co-operation and co-ordination between their respective organizations, taking into full account the functions of the regional economic commission. A similar request for decentralization and for co-operative arrangements at the regional level was made by the General Assembly in resolution 1709 (XVI).

\*\*c. *Co-ordination of activities of the specialized agencies with respect to operating or emergency agencies of the United Nations*

d. *Co-ordination of assistance in cases of natural disaster*

20. The problems connected with the co-ordination of emergency action by United Nations organizations in cases of natural disaster were reviewed by the Co-ordination Committee of the Council in the aftermath of the disaster at Skopje, Yugoslavia. In its report<sup>26</sup> to the Council at its thirty-sixth session,

<sup>22</sup> The draft framework of functional classifications was presented to the Council by the Administrative Committee on Co-ordination in its 29th report (E S C (XXXVII), Annexes, a. i. 6, E/3886 and Add. 1), and was endorsed in principle by the Council's Co-ordination Committee subject to certain changes (E S C (XXXVII), Annexes, a. i. 7, E/3976, para. 7).

<sup>23</sup> Problems of co-ordination connected with decentralization of the activities of the United Nations system are dealt with in greater detail in this *Supplement*, under Article 58, paras. 25-29.

<sup>24</sup> E S C (XXXII), Annexes, a. i. 4, E/3495 and Add. 1.

<sup>25</sup> E S C (XXX), Annexes, a. i. 3, E/3368, para. 40.

<sup>26</sup> E S C (XXXVI), Annexes, a. i. 4 and 6, E/3833, para. 7 (b).

the Committee devoted special attention to the passages of the 1963 report of ACC<sup>27</sup> dealing with emergency action by United Nations organizations in cases of natural disaster and, after noting the work being done in this field by the agencies, the Committee expressed the hope that ACC would hasten its studies with a view to adopting agreed procedures whereby assistance from the United Nations system, as well as the Red Cross, might be rendered in an effective and well co-ordinated manner. In the report the view was also expressed that the Secretary-General should take the lead in establishing, in conjunction with the specialized agencies and the League of Red Cross Societies, appropriate arrangements for assistance in rapid and concerted relief and reconstruction in cases of natural disaster. The Council decided to annex<sup>28</sup> to the resolutions dealing with questions relating to the development, co-ordination and concentration of activities of the United Nations system, adopted at its thirty-sixth session, certain passages of the report of its Co-ordination Committee in which the above mentioned views were expressed.

21. At its twentieth session, the General Assembly, acting on the recommendation<sup>29</sup> of the Economic and Social Council, invited<sup>30</sup> the executive heads of the organizations and programmes within the United Nations system, under the leadership of the Secretary-General, to continue and intensify their efforts to ensure the full co-ordination of their assistance to countries stricken by natural disasters.

## 2. CONSULTATIONS WITH THE SPECIALIZED AGENCIES<sup>31</sup>

22. At its thirtieth session, the Council, recalling<sup>32</sup> the decision set forth in its report<sup>33</sup> to the General Assembly at its fourteenth session "to draw the attention of the General Assembly to the desirability of adopting a procedure similar to that outlined in rule 80 of the Council's rules of procedure" and noting the interest attached to this matter by the specialized agencies, recommended the following draft resolution for adoption by the General Assembly:

"The General Assembly,

"Noting that the Economic and Social Council and most of the specialized agencies have adopted

<sup>27</sup> E S C (XXXVI), Annexes, a. i. 4, E/3765, paras. 163 to 170.

<sup>28</sup> E S C (XXXVI), Suppl. No. 1, annex, p. 39.

<sup>29</sup> E S C resolution 1090 C (XXXIX).

<sup>30</sup> G A resolution 2034 (XX).

<sup>31</sup> In a legal opinion given on 10 May 1962 by the Secretariat of the United Nations to the Legal Counsel of the Food and Agriculture Organization of the United Nations on the meaning of the expressions "in consultation with" and "after consultation with" in the practice of the United Nations, it was stated that the words "through consultation with" in Article 63 "have not been construed as requiring the consent of the organization which is to be consulted to enable the consulting organization to take such action as its competent organs may deem appropriate in the light of consultations held". (*United Nations Juridical Yearbook*, 1962 (Provisional Edition), pp. 268 and 272).

<sup>32</sup> E S C resolution 800 (XXX).

<sup>33</sup> G A (XIV), Suppl. No. 3, chap. VIII, para. 584.

rules of procedure providing for prior consultation before taking action on matters of concern to each other,

"Decides, in conformity with this practice, henceforth to ensure that prior consultations have taken place with the specialized agency or agencies concerned before adopting any project or proposal relating to matters of direct concern to such agency or agencies."

No action was taken by the General Assembly on this recommendation.

23. At the same session, the Economic and Social Council conducted an extensive examination of the work and role of ACC. The importance of its role as a co-ordinating agent and forum for consultation was generally acknowledged and the Council recognized<sup>34</sup> the progress achieved by ACC in developing and improving arrangements for inter-agency consultations.

24. The desire of the Council to establish a closer relationship with ACC led it to request<sup>35</sup> the Secretary-General, as Chairman of ACC, to arrange for a meeting between ACC and the Officers of the Council and the Chairman of the Council's Co-ordination Committee. The meeting took place on 20 July 1964. In resolution 1043 (XXXVII) the Council noted with satisfaction the report of the President of the Council<sup>36</sup> on this meeting and welcomed the general agreement that there should be further meetings of this kind. At its thirty-ninth session, the Council stressed again the usefulness of these meetings and decided<sup>37</sup> that the reorganized Special Committee on Co-ordination should participate in appropriate joint meetings with ACC. At its forty-first session, the Council had before it the report<sup>38</sup> of the first joint meetings of the two committees. In resolution 1171 (XLI) it welcomed the results of these meetings and endorsed the recommendation that such meetings should continue in the future as a means of helping to ensure more effective co-ordination.

25. The specialized agencies were consulted and participated actively in the preparations for such institutional developments as the establishment of the United Nations Development Programme and the United Nations Industrial Development Organization and the creation of the United Nations Conference on Trade and Development.<sup>39</sup>

## 3. RECOMMENDATIONS TO THE GENERAL ASSEMBLY

26. At its thirtieth resumed session, the Economic and Social Council recommended<sup>40</sup> that the General Assembly should approve the draft Agreement with IDA at its fifteenth session.

<sup>34</sup> E S C resolution 799 A (XXX).

<sup>35</sup> E S C resolution 992 (XXXVI).

<sup>36</sup> E S C (XXXVII), Annexes, a. i. 6, E/3957.

<sup>37</sup> E S C resolution 1090 G (XXXIX).

<sup>38</sup> E S C (XLI), Annexes, a. i. 3, E/4233.

<sup>39</sup> See, for details, this *Supplement* under Article 58, paras. 33 to 38.

<sup>40</sup> E S C resolution 807 (XXX).

## 4. RECOMMENDATIONS TO MEMBERS

27. In the period under review, the Economic and Social Council, on a number of occasions, addressed recommendations to Member States with a view to obtaining their co-operation in its efforts to direct and co-ordinate the activities of the United Nations system within the framework of the Development Decade and, particularly, in connexion with its directives for decentralization of the activities and programmes of the United Nations system and for the evaluation of such activities and programmes.

28. In an attempt to strengthen the "collective approach" to the common task of accelerating the economic and social growth of the developing countries in connexion with the United Nations Development Decade, the Council recommended<sup>41</sup> to Governments members of the United Nations and the agencies that they should stimulate sound and co-ordinated development plans at the country level. Previously, the Governments concerned had been asked<sup>42</sup> to make full use of the services of the resident representatives and of the regional economic

<sup>41</sup> E S C resolution 984 (XXXVI), section III.

<sup>42</sup> E S C resolution 856 (XXXII).

commissions and to keep the former informed of their development plans and requests for technical assistance.

29. In connexion with its efforts to promote a general and systematic evaluation of activities and programmes, the Council, after reiterating<sup>43</sup> its conviction that any evaluation of the impact of technical assistance programmes and activities on development should be a primary concern of the recipient countries, invited<sup>44</sup> them to strengthen their own co-ordination and evaluation procedures.

30. The co-operation of Member States was also called for<sup>45</sup> by the Council in its efforts to promote concentration of activities on priority areas of, and to co-ordinate international activities in such fields as the training of national cadres of specialists,<sup>46</sup> the strengthening of public administrations in developing countries<sup>47</sup> and, in general, in all those fields in which the Council called for a "concerted attack" in order to attain the objectives of the Development Decade.

<sup>43</sup> E S C resolution 991 (XXXVI).

<sup>44</sup> E S C resolution 1151 (XLI), section II.

<sup>45</sup> E S C resolution 909 (XXXIV), section I.

<sup>46</sup> E S C resolution 797 (XXX).

<sup>47</sup> E S C resolution 987 (XXXVI).