

ARTICLE 64

Table of Contents

	<u>Paragraphs</u>
Text of Article 64	
Introductory Note	1 - 4
I. General Survey	5 - 37
A. Reports from specialized agencies	5 - 18
1. Regular reports from the specialized agencies	8 - 14
a. Provisions in the agreements between the United Nations and the specialized agencies	8
b. Provisions in resolutions of the Council	9 - 14
2. Reports by the specialized agencies on steps taken to give effect to recommendations of the Economic and Social Council and of the General Assembly	15 - 18
B. Reports from Members of the United Nations on steps taken to give effect to recommendations of the Economic and Social Council and of the General Assembly on economic and social matters	19 - 37
1. Reports on individual recommendations	21
2. Annual reports on lists of recommendations under General Assembly resolution 119 (II) and Economic and Social Council resolution 210 (VIII)	22 - 26
3. Biennial reports on lists of recommendations under Council resolution 283 (X)	27 - 29
4. Reports under Council resolution 450 (XIV)	30
5. Summary of the two principal methods of obtaining reports	31 - 37
II. Analytical Summary of Practice	38 - 97
A. Reports from the specialized agencies	38 - 63
1. Regular reports from the specialized agencies	38 - 53
a. Form and content of regular reports	38 - 51
b. Frequency of reports and date of their submission	52 - 53
2. Reports by the specialized agencies on steps taken to give effect to recommendations of the Economic and Social Council and of the General Assembly	54 - 57

Table of Contents
(continued)

	<u>Paragraphs</u>
3. Observations of the Economic and Social Council under Article 64 (2)	58 - 63
B. Reports from Members of the United Nations on steps taken to give effect to recommendations of the Economic and Social Council and of the General Assembly on economic and social matters	64 - 97
1. Purposes of Article 64, as interpreted in debates on General Assembly resolution 119 (II) and on the relevant resolutions of the Economic and Social Council	66 - 72
2. Types of recommendations suitable for reports by Governments under Article 64	73 - 76
3. Obligation of Member Governments to furnish reports .	77 - 79
4. Meaning of the term "arrangements"	80 - 81
5. The question of evaluation of reports of Governments .	82 - 85
6. Observations of the Economic and Social Council under Article 64 (2)	86 - 97

TEXT OF ARTICLE 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

INTRODUCTORY NOTE

1. Article 64 is related to other Articles in Chapters IX and X which are concerned respectively with international economic and social co-operation and the functions and powers of the Economic and Social Council. In particular, it may be considered as a part of a sequence of Articles, including:

(1) Article 55, which provides that the United Nations shall promote: "a. higher standards of living"; "b. solutions of international economic, social, health, and related problems"; and "c. universal respect for, and observance of, human rights".

(2) Article 62, which provides that:

"1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters ... to the Members of the United Nations, and to the specialized agencies concerned.

"2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all."

2. In addition, the provisions in Article 64 for obtaining reports from the specialized agencies are related to Articles 58 and 63 (2), which set forth the powers of the United Nations to make recommendations for the co-ordination of the policies and activities of the specialized agencies. In fact, one of the means used by the Council in fulfilling its co-ordinating functions under Articles 58 and 63 (2) has been to obtain reports from the specialized agencies under Article 64. Article 64 is also related to Article 63 (1), which states that the Economic and Social Council may enter into agreements with the specialized agencies, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. The agreements entered into under Article 63 (1) contain provisions concerning the reports required under Article 64.

3. The provision for obtaining reports from Member Governments is, in turn, related to Article 56, by which "All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55."

4. Both the General Survey and the Analytical Summary of Practice of the present study are sub-divided into two major parts. The first parts of the General Survey and of the Analytical Summary deal with the steps taken by the Economic and Social Council "to obtain regular reports from the specialized agencies" and with the arrangements with the specialized agencies for obtaining "reports on the steps taken to give effect to its own recommendations". The second parts deal with the question of obtaining from Member Governments reports on "steps taken to give effect to ... recommendations" of the Economic and Social Council and of the General Assembly on economic and social matters and covers the following topics: the decisions of the General Assembly and of the Council relevant to the application of Article 64 in so far as it relates to reports from Members of the United Nations; the questions related to the arrangements of the Council to obtain from Members of the United Nations reports on the steps taken to give effect to the recommendations of the Council and of the General Assembly on economic and social matters; and the transmission by the Council of its observations on these reports to the General Assembly. It does not attempt to analyse the reports which have been submitted by Governments, or to assess the extent to which Governments have or have not taken steps to give effect to recommendations of the Council and the General Assembly. Both parts of the General Survey and of the Analytical Summary deal with the observations of the Council on the relevant reports and the communication of these observations to the General Assembly in accordance with Article 64 (2).

I. GENERAL SURVEY

A. Reports from specialized agencies

5. The Economic and Social Council, in accordance with Article 64, has taken steps to obtain regular reports from the specialized agencies and has made arrangements to obtain reports from them on steps taken to give effect to its own recommendations and those of the General Assembly on economic and social matters by two means: (1) by including in the agreements between the United Nations and the specialized agencies, entered into under Article 63, provisions for the transmission of regular or annual reports and of reports on the implementation of recommendations, and (2) by adopting specific resolutions relating to regular or annual reports from specialized agencies or to their reports on the implementation of recommendations of the General Assembly or the Council.

6. The transmission of special reports ^{1/} has been provided for in the agreements between the specialized agencies and the United Nations and in resolutions of the General Assembly and the Council in connexion with the exercise of powers under Article 62 (1) and Article 63. Such special reports from specialized agencies are dealt with in this Repertory under Articles 62 and 63.

7. The present study deals separately with the steps taken by the Council to obtain regular reports from the specialized agencies and with arrangements made by the Council for reports by the agencies on their implementation of recommendations of the General Assembly and the Council. It also touches upon the arrangements for special reports in so far as the Council has approved a policy of using, as far as possible, regular reports of the specialized agencies for special information requested by it, instead of requesting special reports. ^{2/}

^{1/} For example, the special report on the principle of equal pay for equal work for men and women workers requested from the International Labour Organisation (ILO) by Council resolution 196 (VIII) and the report on the question of creating an international finance corporation requested from the International Bank for Reconstruction and Development (the Bank) by resolution 482 B (XVI).

^{2/} See para. 12.

1. *Regular reports from the specialized agencies*

a. PROVISIONS IN THE AGREEMENTS BETWEEN THE UNITED NATIONS
AND THE SPECIALIZED AGENCIES

8. The Economic and Social Council has taken steps to obtain regular reports from the specialized agencies by including provisions for the transmission of such reports to the United Nations in the agreements with the specialized agencies entered into by the Council in accordance with Article 63 (1). The transmission of regular reports by the agencies on their activities has been provided for in a standard clause included in seven agreements ^{3/} and in one draft agreement. ^{4/} The transmission of annual reports on the activities of the agencies has been provided for in two agreements; ^{5/} and the furnishing of copies of their annual reports and quarterly financial statements, in two others. ^{6/}

b. PROVISIONS IN RESOLUTIONS OF THE COUNCIL

9. The Council has taken further steps to obtain regular reports from the specialized agencies by adopting a series of resolutions ^{7/} stemming from Article 64 and from General Assembly resolution 125 (II). This resolution called upon the specialized agencies "as appropriate under the terms of their respective agreements with the United Nations:

"(a) To present each year, to the session of the Economic and Social Council preceding the opening of the regular session of the General Assembly, their reports on past activities and their programmes of operations for the subsequent fiscal year to enable the Council to promote the most efficient and practical use of the resources of the United Nations and the specialized agencies by recommendations concerning the definition of responsibility for specific projects and concerning priorities for action".

10. At its sixth session, after considering the reports ^{8/} of the Co-ordination Committee, ^{9/} the Council adopted resolution 128 A (VI), by which it took note of the agreements with the specialized agencies for the transmission of reports to the United Nations and also of General Assembly resolution 125 (II), and gave specific indications

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- ^{3/} See Agreements between the United Nations and the Specialized Agencies, United Nations Publications, Sales No.: 1951.X.1, article V of the agreements between the United Nations and the following specialized agencies: the International Labour Organisation (ILO), the Food and Agriculture Organization of the United Nations (FAO), the International Civil Aviation Organization (ICAO), the World Health Organization (WHO), the International Refugee Organization (IRO), and the Universal Postal Union (UPU); article VI of the agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization (UNESCO).
- ^{4/} Ibid., article V of the draft agreement with the International Maritime Consultative Organization (IMCO).
- ^{5/} Ibid., article V of the agreements with the International Telecommunication Union (ITU) and the World Meteorological Organization (WMO).
- ^{6/} Ibid., article X of the agreements with the International Bank for Reconstruction and Development (the Bank) and the International Monetary Fund (the Fund).
- ^{7/} E S C resolutions 128 A (VI), 497 D (XVI) and 528 (XVII).
- ^{8/} E S C (VI), Suppl. No. 6, E/614; E/625 and E/625/Corr.1
- ^{9/} The name of this Committee was subsequently changed to the Secretary-General's Committee on Co-ordination and finally to the Administrative Committee on Co-ordination (ACC).

concerning the timing, form and content 10/ of the reports to be submitted each year by the specialized agencies under the terms of their respective agreements. By resolution 128 C (VI), the Council also requested the Secretary-General's Committee on Co-ordination to transmit to the Council, at its seventh session, any suggestions or observations it might wish to make on the form and content of the reports.

11. At its seventh session, the Council considered 11/ the observations submitted by ACC 12/ and noted the views of the agencies concerning the limitations on the extent to which detailed information could be included and uniformity and comparability attained, and also noted the preference of certain agencies to transmit to the Council their normal reports to their own members, with supplements. The Council did not, however, make specific recommendations at that time.

12. At its tenth session, after considering the report of ACC, 13/ the Council, by resolution 284 (X), requested the Secretary-General to call to the attention of the other organs of the United Nations the desirability of using, wherever possible, the annual reports of the specialized agencies to the Economic and Social Council rather than requesting special reports.

13. At its sixteenth session, the Council, by resolution 497 D (XVI), after "Recognizing that reports from the specialized agencies are essential to the fulfilment of the Council's responsibility under Article 64 of the Charter for co-ordinating the activities of the United Nations and the specialized agencies," requested the specialized agencies to give particular attention in their next annual reports to a number of matters listed. The Council also requested ACC to review all aspects of the problem of reporting by the specialized agencies to the United Nations and to submit its observations at the seventeenth session.

14. At its seventeenth session, the Council, after considering the observations of ACC on the reports of the specialized agencies 14/ by resolution 528 (XVII), requested the specialized agencies to continue, until further notice, to give particular attention in their annual reports to the matters listed in resolution 497 D (XVI).

2. Reports by the specialized agencies on steps taken to give effect to recommendations of the Economic and Social Council and of the General Assembly

15. Article 64 states that the Economic and Social Council "may make arrangements with the ... specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly".

16. The Council has, accordingly, made the necessary arrangements by the inclusion in the agreements between the United Nations and all of the specialized agencies,

10/ The Council also requested that the reports contain an account of activities pursuant to recommendations of the General Assembly and the Council. See para. 39 below.

11/ E/AC.24/SR.9; also G A (III), Suppl. No. 3 (A/625), para. 246.

12/ E S C (VII), Suppl. No. 11 (E/846), para. 6.

13/ E S C (X), Annexes, a.i. 24, E/1572.

14/ E S C (XVII), Annexes, a.i. 19, E/2512, paras. 8-11.

except the Bank and the Fund, of virtually identical provisions 15/ concerning reports from the agencies on their implementation of such recommendations. In many cases the Council has adopted resolutions which have requested specialized agencies to take specific action, such as undertaking consultation with Governments, and has included in the resolutions requests for reports on the actions. 16/

17. The Council has also directed many recommendations for special reports or studies to the specialized agencies; in these cases the special reports or studies themselves have constituted the implementation of the recommendation and no further reports have been required. 17/

18. The Council has also made a specific request by paragraph 2 of its resolution 128 A (VI) that the reports submitted each year by the specialized agencies should include "An account of the activities of the agency for the past year ... noting particularly actions taken pursuant to recommendations of the General Assembly and the Council."

B. Reports from Members of the United Nations on steps taken to give effect to recommendations of the Economic and Social Council and of the General Assembly on economic and social matters

19. This part of the General Survey presents a brief factual review of the procedures followed in obtaining reports from Member Governments in accordance with General Assembly resolution 119 (II), by which the Assembly made recommendations for the fulfilment of Article 64, and in accordance with relevant resolutions of the Economic and Social Council.

20. The Economic and Social Council has exercised its power under Article 64 (1) to make arrangements to obtain reports from Member Governments on steps they have taken to give effect to recommendations on economic and social matters by including requests for such reports in individual resolutions, or by setting up procedures for obtaining general reports on the implementation of recommendations.

1. Reports on individual recommendations

21. The Council has included in a number of its individual resolutions requests or recommendations to Member Governments that they supply reports or information on the implementation of the resolutions concerned. 18/ The Secretary-General has called these recommendations individually to the attention of Governments of Member States and has requested them to provide the information required. 19/

15/ Article IV of the agreements between the United Nations and ILO, FAO, WHO, IRO, ITU, WMO and IMCO; article V of the agreements between the United Nations and UNESCO and between the United Nations and ICAO.

16/ See E S C resolutions 416 C (XIV) and 532 C (XVIII).

17/ See para. 6 above.

18/ See paragraph 74 (c) below relating to resolutions requesting Governments to supply information but not recommending any action on the part of Governments other than the provision of factual information.

19/ For example, E S C resolutions 41 (IV), 49 (IV), 86 (V), 123 (VI).

2. Annual reports on lists of recommendations under General Assembly resolution 119 (II) and Economic and Social Council resolution 210 (VIII)

22. The Council, at its sixth session, received a note from the Secretary-General 20/ calling its attention to General Assembly resolution 119 (II) which read as follows:

"The General Assembly,

"1. With a view to the creation of conditions of stability and well-being and to the promotion of social progress and better standards of life, taking account of the fact, well established by experience, that prosperity is indivisible and requires the co-operation of all Member States within the framework of the United Nations,

"2. Calls upon all Member States to carry out all recommendations of the General Assembly passed on economic and social matters;

"3. Recommends, furthermore, that in fulfilment of Article 64 of the Charter of the United Nations the Secretary-General report annually to the Economic and Social Council and that the latter report to the General Assembly on steps taken by the Member Governments to give effect to the recommendations of the Economic and Social Council as well as to the recommendations made by the General Assembly on matters falling within the Council's competence."

The note further stated that:

"The Secretary-General intends to initiate the appropriate steps to obtain annually from Member Governments the information required under this resolution. On the basis of this information, the Secretary-General will submit an Annual Report to the session of the Economic and Social Council immediately preceding the regular session of the General Assembly."

23. Consequently, without further action by the Council, 21/ the Secretary-General, in accordance with General Assembly resolution 119 (II) and his note, addressed letters to Governments of Member States calling their attention to General Assembly resolution 119 (II), enclosing a list of the relevant recommendations of the Council and the General Assembly, and requesting Governments to notify him of any action which they had taken to implement the resolutions. A report prepared by the Secretary-General and the information received from Governments 22/ were submitted to the Council at its seventh session, during which the Council decided, by resolution 173 (VII), to forward the report of the Secretary-General and the statements from Governments to the General Assembly and to consider the matter at its eighth session.

24. At its eighth session, 23/ the Council, in accordance with General Assembly resolution 119 (II), adopted resolution 210 (VIII) dealing with the establishment of regular procedures and schedules for reports by Governments on lists of recommendations

20/ E/616.

21/ Further consideration of this matter (item 38 of the agenda of the sixth session (E/631)) was deferred to the seventh session. E S C (VI), 155th mtg., pp. 283 and 284.

22/ E/963 and Add.1-17.

23/ For a summary of the discussions at the eighth session, see the report of the Council, G A (IV), Suppl. No. 3 (A/972), paras. 359-364.

to be transmitted to them by the Secretary-General and for the annual reports required of the Secretary-General and of the Council.

25. By resolution 210 (VIII) the Council, while recognizing that any procedure established at that stage might have to be reconsidered, established a time-table for annual reports by Governments and by the Secretary-General. It requested the Secretary-General to transmit lists of relevant recommendations of the Council and the General Assembly to the Governments of Member States by 1 October of each year, and requested Member Governments to report by the following 1 March on steps taken to give effect to these recommendations and to arrange their reports in such form as to assist the Secretary-General in compiling the annotated list to be submitted under paragraphs 5 (ii) and (iii) of the resolution, as indicated in the relevant passages of the resolution set out below:

"The Economic and Social Council,

".....

"5. Further requests the Secretary-General:

"(i) To circulate the full text of the reports received from Member Governments under paragraph 4 above immediately on receipt;

"(ii) To transmit to the Council not later than 1 May of each year a report containing:

"(a) A fully annotated list to serve as an index to all the reports received under paragraph 4 above before 1 March of the same year and indicating in what other context information has been supplied which does not appear in these reports;

"(b) A factual statement regarding the extent to which Governments have not reported on the implementation of the recommendations transmitted to them under paragraph 3 above;

"(iii) To arrange the list referred to in paragraph 5 (ii) so that it will show:

"(a) Which resolutions deal only with requests for factual information;

"(b) The extent of compliance to requests falling under paragraph 5 (iii) (a)."

26. Accordingly, the Secretary-General transmitted lists of recommendations to Governments and prepared a report, 24/ which was considered by the Council at its ninth session in conjunction with the replies from twenty-eight Governments. 25/

3. *Biennial reports on lists of recommendations under Council resolution 283 (X)*

27. At its ninth session, the Council decided that the matter of obtaining reports from Member States required further study and adopted resolution 255 (IX) by which it established an ad hoc committee to examine the replies from Governments and the report of the Secretary-General and to report to the Council at its tenth session and in particular:

24/ E S C (IX), Annexes, pp. 228 et seq.

25/ E/963 and Add.1-47.

"(a) To comment on the form of the replies received and to recommend methods of securing more useful replies in future by improving the procedure for collecting the information or in other ways;

"(b) To indicate those resolutions on which no further reports will be required;

"(c) To indicate, if appropriate, any resolution to which the Council might further direct its attention;

"(d) To report generally on the question of the implementation of Council and Assembly recommendations and on the form and frequency of the Council's report to the General Assembly; and

"(e) To recommend, in the light of the foregoing examination, means whereby the Council and the Secretary-General can improve the procedure so that more effective action is taken as a result of Council and Assembly recommendations."

28. At its tenth session the Council examined the report of the Ad Hoc Committee on the Implementation of Recommendations on Economic and Social Matters. ^{26/} It decided, by resolution 283 (X), to follow the procedures recommended by the Committee ^{27/} and amended its resolution 210 (VIII) accordingly. By resolution 283 (X) the Council established arrangements for a general biennial reporting procedure, including a timetable for (a) the circulation to Governments by the Secretary-General of lists of recommendations, (b) a reminder from the Secretary-General to Governments, (c) the replies to be received from Governments, (d) the circulation of the report of the Secretary-General and (e) consideration by the Council of the report and of recommendations to be sent to Governments in connexion with subsequent reports. By this resolution the Council also indicated certain points ^{28/} on which the Secretary-General should ask Governments to make statements, if appropriate, in their replies. Further, it indicated the form to be taken by the report of the Secretary-General, the action which the Council might take, the form of the report of the Council to the General Assembly, resolutions requiring further attention, and recommendations not to be included in the list sent to Governments as part of the two-year cycle.

29. Accordingly, the Secretary-General circulated the lists of recommendations to Governments and submitted a report ^{29/} under the biennial procedure to the Council at its fourteenth session.

4. Reports under Council resolution 450 (XIV)

30. At its fourteenth session, the Council, by resolution 450 (XIV), noted that the General Assembly and the Council had shown an increasing tendency to adopt resolutions which required specific reports within specified time-limits and that the record of replies to such resolutions was satisfactory. It therefore discontinued the general biennial reporting procedure which had been established by Council resolution 283 (X) ^{30/} and decided to include in its resolutions, wherever practicable,

^{26/} E S C (X), Annexes, a.i. 23, E/1585, p. 15.

^{27/} E S C resolution 283 (X) included the operative part, as amended, of the report of the Ad Hoc Committee as an annex.

^{28/} E S C resolution 283 (X), annex, para. 16.

^{29/} E/2165 and Addis.1-47, and E/2166.

^{30/} The Council, by paragraph 4 of resolution 450 (XIV), decided to discontinue the application of paragraphs 12-19, 22, 23 and 25 of the annex to resolution 283 (X), but it left paragraphs 20, 21 and 24 operative; see paragraphs 92-94 below.

indications as to the timing of the reports expected from Governments in implementation of the resolutions concerned, and to include each year in its annual report to the General Assembly information regarding replies received from Governments on the implementation of recommendations of the General Assembly and the Council on economic and social matters. It also decided that, as might be appropriate in the course of its work, it would consider the desirability of reviewing the implementation of such recommendations relating to a particular field, or fields, of its activities. Resolution 450 (XIV) is still in force.

5. Summary of the two principal methods of obtaining reports

31. To summarize the arrangements made by the Council to obtain reports from Members of the United Nations on steps taken to give effect to recommendations on economic and social matters, it may be said that two methods have been followed: first, Governments have been requested to supply reports with respect to individual resolutions as required, as indicated in the procedure outlined in paragraphs 21 and 30 above, and second, Governments have been requested to supply reports with respect to lists of recommendations as indicated in the procedures outlined in paragraphs 22-29 above.

32. It must be noted that the two methods used by the Council for obtaining reports from Governments have not been mutually exclusive and that, during the period between the adoption of Council resolutions 283 (X) and 450 (XIV), the operation of both methods was concurrent and complementary. By resolution 283 (X), the Council, although establishing a regular two-year cycle for reporting on lists of recommendations, recognized ^{31/} that some individual resolutions "might have to be treated differently and more quickly." The report prepared by the Secretary-General ^{32/} for submission to the Council under resolution 283 (X) covered twelve recommendations which had been included on the list sent to Governments by the Secretary-General under the two-year procedure, and it also included eighteen recommendations on which the Secretary-General had taken steps to obtain information from Governments by virtue of specific requests contained in the resolutions themselves or on which he had received information in different contexts.

33. Furthermore, while resolution 283 (X) was in force, the Secretary-General prepared his biennial report under that resolution and, at the same time, continued to report to the Council annually, as required by General Assembly resolution 119 (II), ^{33/} on those resolutions which "had to be treated differently or more quickly", on those which contained specific indications as to the timing of reports, or on which he had received information in other ways.

34. The method now followed under Council resolution 450 (XIV) outlined in paragraph 30 above represents essentially a return to the first method outlined in paragraph 21 above - that is to say, reliance on reports on the implementation of

^{31/} E S C resolution 283 (X), annex, para. 13.

^{32/} E/2166 and E/2165 and Add.1-47.

^{33/} The Ad Hoc Committee on the Implementation of Recommendations on Economic and Social Matters had suggested, in paragraph 27 of its report (E S C (X), Annexes, a.i. 23, E/1585, p. 15), that the Council might "wish to consider whether it should recommend to the General Assembly any amendment to the Assembly resolution 119 (II)," but this paragraph was omitted from the operative part of the report and the General Assembly did not amend resolution 119 (II).

individual resolutions, as required. Since the adoption of resolution 450 (XIV), the Council has not considered the desirability of reviewing the implementation of recommendations relating to the whole of any particular field of its activities, although the resolution provides for this possibility.

35. Resolutions which have included specific requests for reports have usually specified that the report be sent to the Secretary-General. ^{34/} In some cases, the request for reports has not been made directly to Member Governments, but to the Secretary-General, who has been asked to request the reports from Governments. ^{35/} Thus, the "arrangement" has been simply that the Secretary-General, acting under General Assembly resolution 119 (II) ^{36/} and under relevant resolutions of the Council, ^{37/} has sent to Governments communications requesting them to supply him with reports on the implementation of individual resolutions, as indicated in paragraphs 21 and 30 above; or he has sent to Governments lists of recommendations as indicated in paragraphs 22-29 above, together with a request that they supply reports on their implementation. ^{38/}

36. Neither in its individual resolutions requesting information from Governments nor in its resolutions dealing with a general reporting procedure has the Council referred directly to, or has it invoked, Article 64. ^{39/} Several resolutions of the Council on this matter, ^{40/} however, have contained indirect references to Article 64 in the form of references to General Assembly resolution 119 (II), under which the Assembly recommended that the Secretary-General and the Council submit annual reports "in fulfilment of Article 64 of the Charter".

37. It should also be noted that virtually no discussion of the questions involved in obtaining reports from Governments has taken place during the consideration of individual draft resolutions requesting such reports. It was in connexion with General Assembly resolution 119 (II) and with the creation of general reporting procedures that these questions were explored by the General Assembly, by the Council, ^{41/} and, more especially, by the Ad Hoc Committee on the Implementation of Recommendations on Economic and Social Matters established under Council resolution 255 (IX). ^{42/}

^{34/} For example, E S C resolution 41 (IV).

^{35/} For example, E S C resolution 123 A (VI).

^{36/} See para. 22 above.

^{37/} See paras. 26 and 29 above.

^{38/} See paras. 79 and 80 below regarding the question whether further arrangements or agreements were required.

^{39/} In connexion with reports from specialized agencies as distinguished from reports from Governments, the Council has specifically referred to Article 64 (E S C resolutions 128 B (VI), and 259 (IX), annex, para. 1).

^{40/} See for example, E S C resolutions 173 (VII), 210 (VIII) and 255 (X).

^{41/} See paras. 65 et seqq., below.

^{42/} See footnotes 26 and 27 above.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Reports from the specialized agencies

1. Regular reports from the specialized agencies

a. FORM AND CONTENT OF REGULAR REPORTS

38. The standard article which appears in most of the agreements between the specialized agencies and the United Nations (usually Articles V or VI) provides that, "Subject to such arrangements as may be necessary for the safeguarding of confidential material, the fullest and promptest exchange of information and documents shall be made" between the United Nations and the agency in question. In particular, the agency agrees "to transmit to the United Nations [regular 43/ or annual 44/] reports on the activities" of the agency.

39. The agreements with the Bank and the Fund differ from the others in that article V of both agreements omits provision for the transmission of regular or annual reports to the United Nations, but provides for the exchange of information and publications of mutual interest, and the furnishing of special reports and studies upon request, to the fullest extent practicable and subject to article I (3) of the respective agreements, which concerns the safeguarding of confidential material furnished by their members and others. Article X of these agreements, however, provides that the Bank or the Fund, respectively, will furnish to the United Nations copies of the annual reports and of the quarterly financial statements prepared under their respective Articles of Agreement. Thus, the Bank has provided its Annual Report to the Board of Governors, together with a supplement, and the Fund has provided the Annual Report of the Executive Directors, together with a summary bringing the information up to date.

40. For the other agencies, the practice has been to submit reports which have been especially prepared for the Council, in the case of ILO, UNESCO and ITU, or to submit to the Council the same reports regarding their programmes and budgets as they submit to their own governing bodies or conferences, supplemented in some cases by summaries or notes for the guidance of the Council.

41. It has been pointed out 45/ by ACC that these divergencies have come about because the functions of the various agencies differ considerably, and because in each instance the form of the report has been developed to serve other useful purposes, including that of reaching wider circles, such as Government departments and the general public.

42. In connexion with specific details concerning the form and content of the regular reports from specialized agencies, the Council has considered the comments of ACC before adopting its resolutions on these matters. In considering the question at its sixth session, the Council had before it General Assembly resolution 125 (II), by which the Assembly called upon the specialized agencies "To present each year ... their reports on past activities and their programmes of operations for the subsequent fiscal year", as well as the observations of the Co-ordination Committee (later renamed ACC), 46/ to the effect that the representatives of the agencies had undertaken to give careful consideration to the form and character of report best suited to

43/ ILO, FAO, UNESCO, ICAO, WHO, IMCO.

44/ UPU, ITU, WMO.

45/ E S C (XVII), Annexes, a.i. 19, E/2512, para. 11.

46/ E S C (VI), Suppl. No. 6, p. 44, Second Report, para. 29.

the purposes of the resolution" of the General Assembly, and that it had been agreed "that in all cases the reports should be designed to bring out particularly the relationship between activities in related fields as between the various agencies, and as between the agencies and the United Nations". In the Committee on Matters Relating to Co-ordination ^{47/} of the Council, various views were expressed. ^{48/} On the one hand, it was thought that it was not necessary to spell out in detail the information required from the specialized agencies, and on the other hand, it was felt that the Council should apply to the full its methods for co-ordination provided under the Charter and should indicate to the agencies the type of information it considered useful, as well as requiring a certain degree of comparability in the presentation of the information as between agencies. In this latter connexion, however, it was observed that account should be taken of the differences in the various agreements between the United Nations and the agencies in question. For example, in the agreement concluded with the Bank it was implied that the latter would be the judge as to the information it would communicate to both the Economic and Social Council and to the Security Council. On this question it was hoped that the agencies would interpret the relevant provisions of the agreements as broadly as possible in so far as the furnishing of information to the Economic and Social Council was concerned. With regard to content, it was observed that it might be advisable for the Council not to list the required information in detail in view of the risk of obtaining information solely on the questions listed. Lastly, it was stated that special attention should be paid by the agencies to the inter-relationship of their activities with those of the United Nations and of other agencies.

43. The Council then adopted resolution 128 A (VI), by which it requested that the regular reports of the specialized agencies include the following:

"1. Information relating to the organization of the agency, such as membership, an organization chart of the secretariat, a list of committees and a summary of their functions;

"2. An account of the activities of the agency for the past year, including

"(a) Conferences and meetings held;

"(b) Actions taken, such as conventions or regulations adopted, recommendations to Governments, expert assistance rendered to Governments, studies made and publications issued, noting particularly actions taken pursuant to recommendations of the General Assembly and the Council;

"(c) Relations with the United Nations and its various organs, matters referred by the agency to the United Nations, participation in United Nations meetings, and co-operative projects;

"(d) Relations with other specialized agencies;

"3. An account of activities and work programmes for the current calendar year, including the items outlined under (2) above, with an indication of the priorities, if any, applied to these programmes and special reference to any major modifications of work programmes previously transmitted;

^{47/} Subsequently renamed "Co-ordination Committee of the Council".

^{48/} E/AC.24/SR.5.

"4. As far as possible, an account of the proposed activities and work programmes for the subsequent year."

44. The agreements which were negotiated 49/ with IRO and IMCO after the adoption of Council resolution 128 A (VI) provided that these agencies would transmit regular reports not only on their past activities, but also on the programmes of their operations for each ensuing year, in accordance with the recommendations contained in General Assembly resolution 125 (II) and in Council resolution 128 A (VI). However, the agreement with WMO, also negotiated 50/ after the adoption of these resolutions, omitted as superfluous the provisions for including information on its programme of operations for the ensuing year, since this point was already covered under the above-mentioned resolutions.

45. In accordance with the request of the Council contained in resolution 128 C (VI), the Co-ordination Committee (later renamed ACC) gave further attention to the question of reports of specialized agencies in its third report to the Council. 51/ The primary purpose of the reports, it was stated, was "to facilitate the task of the Council in discharging the responsibility for securing effective co-ordination of the activities of the United Nations and the specialized agencies entrusted to it by the Charter". The Committee felt that the information specified in sub-paragraph 2 (c) and (d) of resolution 128 A (VI) was of special importance. It doubted whether very detailed information under certain of the items mentioned in the resolution would be of sufficient practical value to the Council for purposes of co-ordination to justify the labour and expense involved in its preparation and suggested that the matter be dealt with progressively as further experience was acquired. The Committee pointed out that the form of the report varied with the differing working methods of the agencies and that some agencies would prefer to transmit to the Council their normal reports to their own members with supplements, while others would prefer to prepare special reports. It was hoped that greater uniformity might be attained in the future. Preliminary examination had been made of the possibility of including budgetary information (as requested in paragraph 3 of resolution 128 C (VI)), and the Committee pointed out that the budgets of the specialized agencies were already communicated to the United Nations under the terms of their agreements, that none of the agencies budgeted on a project basis, and that the work being done through the Consultative Committee on Administrative Questions regarding problems of project budgeting would gradually yield useful experience in this connexion.

46. The Council, at its seventh session, 52/ noted these observations of the Co-ordination Committee (later renamed ACC), but did not request the agencies to alter the form and content of their reports indicated in Council resolution 128 A (VI).

47. At its sixteenth session, the Council discussed 53/ the question of the nature of the reports of specialized agencies and adopted resolution 497 D (XVI), by which it stated that it considered that the appropriate time had come for a review of the existing reporting arrangements in the light of experience. It requested the specialized agencies, in addition to providing background information, to give particular attention in their next regular reports to the Council to the following

49/ E/C.1/SR.61 and 67.

50/ E/C.1/SR.64/Rev.1. One representative expressed the view that the inclusion of information on programmes for the ensuing year would not be in conformity with Article 64 which did not call for such information.

51/ E S C (VII), Suppl. No. 11 (E/846), paras. 6 and 7.

52/ E/AC.24/SR.9, pp. 8-18.

53/ E S C (XVI), 740th and 741st mtgs.

matters: (a) The major developments in their programmes during the past year and the current year, and in the programmes planned for the ensuing year, with an indication of priorities established and of any major shifts of emphasis in these programmes; (b) The extent and nature of participation in co-operative projects and activities with the United Nations and other specialized agencies; (c) Major developments in their relations with the United Nations and with other specialized agencies; (d) Specific actions taken pursuant to recommendations of the General Assembly and the Council; (e) Any other actions taken or contemplated in implementation of their agreements with the United Nations; and (f) A list of meetings held or contemplated with an indication of their purpose.

48. The Council also requested ACC to review all aspects of the problem of reporting by specialized agencies, including the question of the frequency, length, content and method of presentation of their reports and to submit its observations to the Council at its seventeenth session.

49. The Council, at its seventeenth session, had before it the report of ACC, 54/ which pointed out that the Council, by resolution 497 D (XVI), had considerably shortened the list of detailed information it requested the specialized agencies to include in their regular reports. Until experience had been gained under the new arrangements, ACC preferred to reserve any suggestions for further limiting the list of information requested. It felt that the reports would lose much of their effectiveness if prepared at intervals of more than one year. Concerning the length and content of the reports, ACC noted that the agencies themselves desired to make them as short as possible and felt that considerable latitude should be permitted to each agency to give a sufficiently comprehensive picture of the work it was doing in its particular field.

50. As regards the form or methods of presentation of regular reports, ACC referred to the varying practices under which some agencies, such as ILO, UNESCO and ITU, prepared special reports for the United Nations, while others submitted to the Council the same reports as they submitted to their own governing bodies or conferences, supplemented in some cases by summaries or notes for the guidance of the Council. These divergent practices were related to the differing functions of the agencies and to the varying purposes served by the reports, including that of reaching wider circles such as Government departments and the general public. The hope was expressed that the Council would see no difficulty in the continuance of the existing variety of practices.

51. The Council then adopted resolution 528 (XVII), by which it noted the observations of ACC and requested the specialized agencies to continue in their reports to give particular attention to the matters listed in Council resolution 497 D (XVI), paragraph 1.

b. FREQUENCY OF REPORTS AND DATE OF THEIR SUBMISSION

52. The General Assembly, by resolution 125 (II), called upon the specialized agencies to present their reports "each year, to the session of the Economic and Social Council preceding the opening of the regular session of the General Assembly". In its second report to the Council, 55/ the Co-ordination Committee (later renamed ACC) agreed that "in order to allow the necessary time for consideration by the Preparatory Committee of the Co-ordination Committee and by the Co-ordination Committee, before the seventh session of the Council in July 1948, the reports should be submitted by

54/ E S C (XVII), Annexes, a.i. 19, E/2512, paras. 8-11.

55/ E S C (VI) Suppl. No. 6. p. 44, Second Report. para. 29.

31 March 1948, except in those cases where the circumstances of an agency rendered this impracticable, and that 1 July should in any case be the latest date for transmission". During the discussion ^{56/} of the matter in the Council, it was explained that the earlier date of 15 March had been suggested by the Co-ordination Committee in order to give the Secretary-General and the Committee the necessary time to examine the reports before the session of the Economic and Social Council which preceded the General Assembly. On the other hand, it was observed that it might be impractical to request the submission of the reports earlier than 15 May, particularly if the information asked for would concern the programmes of future work, and that an earlier date would have the added disadvantage of making the reports less up to date.

53. The Council, by resolution 128 A (VI), requested the specialized agencies to submit their reports "not later than 15 May of each year". Subsequent resolutions have not altered this arrangement. Some attention was given by ACC to the proposal that reports of specialized agencies could be examined every two or three years rather than annually, ^{57/} but the Committee reverted to the view that the reports would lose much of their value if prepared at intervals of more than one year. ^{58/}

2. Reports by the specialized agencies on steps taken to give effect to recommendations of the Economic and Social Council and of the General Assembly

54. The articles of the respective agreements between the United Nations and the specialized agencies which relate to the implementation of the recommendations of the United Nations raise no special questions with the exception of the agreements negotiated with the Bank and the Fund. All other agreements include an article which refers to the responsibility of the United Nations, under Articles 58 and 63, to make recommendations ^{59/} for the co-ordination of the policies and activities of the specialized agencies, and they contain a provision by which each agency agrees to arrange for the submission as soon as possible to its governing body, or to such other organ as may be appropriate, of formal recommendations which the General Assembly or the Council might make to it. Only paragraph 2 of these articles bears directly upon Article 64 of the Charter, for this paragraph provides for reports from the agency concerned which agrees "to enter into consultation with the United Nations, upon request, with respect to such recommendations, and in due course to report to the United Nations on the action taken ... [by the agency] to give effect to such recommendations, or on the other results of their consideration".

55. Article IV of the agreements with the Bank and the Fund indicates in each case a different approach to the question of recommendations. ^{60/} Paragraphs 1 and 2 of the article read as follows:

"1. The United Nations and the Bank shall consult together and exchange views on matters of mutual interest.

"2. Neither organization, nor any of their subsidiary bodies, will present any formal recommendations to the other without reasonable prior consultation with regard thereto. Any formal recommendations made by either organization after such

^{56/} E/AC.24/SR.5.

^{57/} E S C (XVI), 740th mtg., para. 1.

^{58/} See para. 45 above and E S C (XVII), Annexes, a.1. 19, E/2512, para. 9.

^{59/} See also in this Repertory under Articles 58 and 63.

^{60/} See in this Repertory under Article 63; also E S C (IX), Suppl. No. 17 (E/1317), chap. I and chap. II, F.

consultation will be considered as soon as possible by the appropriate organ of the other."

56. Article IV of the agreement with the Bank contains a third paragraph (omitted from the agreement with the Fund), which reads as follows:

"3. The United Nations recognizes that the action to be taken by the Bank on any loan is a matter to be determined by the independent exercise of the Bank's own judgement in accordance with the Bank's Articles of Agreement. The United Nations recognizes, therefore, that it would be sound policy to refrain from making recommendations to the Bank with respect to particular loans or with respect to terms or conditions of financing by the Bank. The Bank recognizes that the United Nations and its organs may appropriately make recommendations with respect to the technical aspects of reconstruction or development plans, programmes or projects."

57. The standard clause to be found in the agreements with the other agencies, whereby the respective agency agrees "to enter into consultation with the United Nations, upon request, with respect to such recommendations, and in due course to report to the United Nations on the action taken by the organization or by its members to give effect to such recommendations, or on the other results of their consideration", does not appear in the agreements with the Bank and the Fund.

3. Observations of the Economic and Social Council under Article 64 (2)

58. In accordance with Article 64 (2), the Council has communicated to the General Assembly its observations on the reports of the specialized agencies by including sections relating to the agencies' regular reports in its own annual report to the General Assembly. The reports of the Council have contained a separate chapter entitled "Questions of co-ordination and relations with specialized agencies" which has included a general discussion of the co-ordination aspects of the reports of all the specialized agencies and a statement of the action taken by the Council. However, material on the substantive work of the specialized agencies pertaining to subjects considered by the Council has been included in other chapters dealing with the subject concerned. For example, in the reports of the Council for 1951, 1952, 1953 and 1954, the reports of the Fund and of FAO have been the subject of separate sections in the chapter entitled "General economic questions", while the annual report of the Bank has been discussed in the chapter entitled "Economic development of under-developed countries" under the heading "Financing of economic development". The report has also given full references to the Summary Records of the plenary meetings of the Council and of the meetings of its various committees in which the reports have been discussed. 61/

61/ The Council, by resolution 259 (IX), accepted a proposal of its Co-ordination Committee to refer the reports of the specialized agencies to its Co-ordination Committee for consideration with regard to both substance and co-ordination. The Secretary-General had recommended to the Ad Hoc Committee on the Organization of the Council (E/AC.34/4, paras. 3 and 4) that the reports of the specialized agencies be discussed, in the first instance, at plenary meetings of the Council, with the possibility that certain matters which required consideration in detail could be referred to the Economic Committee, the Social Committee or the Co-ordination Committee as appropriate. This proposal was endorsed by ACC (E/1991, para. 55), and the Council, by resolution 414 (XIII), part A. I, para. 8 (h), decided that "Major items shall normally be dealt with by the plenary Council, on the understanding that it may refer any item or any particular aspect of an item to one of its committees for study, drafting or report".

59. In addition, the Council has adopted resolutions dealing with reports of the specialized agencies. In some cases it has dealt with a number of these reports under a single resolution, such as resolution 129 (VI), by which the Council expressed its appreciation of the reports of FAO, ICAO, UNESCO, ILO and of the Interim Commission of WHO, and without commenting on the contents, requested the Secretary-General to transmit to the agencies summaries of the discussion of the Council of these reports.

60. In other cases, the Council has adopted separate resolutions or sections of resolutions devoted to the reports of individual agencies, such as resolution 167 (VII). In this resolution the Council took note or expressed its appreciation of the reports of several agencies and requested the Secretary-General to transmit the record of its discussions to the agency concerned. In the case of the report of the Bank, however, the resolution also commented on the statements made by officials of the Bank concerning its intention to pay more attention to the problems of development and expressed the hope that the Bank would take measures to facilitate the early realization of development loans.

61. At its eleventh session, the Council adopted a series of resolutions, 325 (XI) to 332 (XI), on the reports of the specialized agencies which had been considered at that session. Most of these resolutions merely expressed the appreciation of the Council and requested the Secretary-General to transmit the records of the relevant discussions to the agency concerned. Resolution 328 (XI), however, dealing with the report of ITU, included specific indications as to material the Council wished to have included in the next report; and resolution 331 (XI), on the report of UNESCO, contained a commendation of the efforts of UNESCO to establish priorities as well as indications of the hopes and requests of the Council concerning the future programme of UNESCO.

62. At its thirteenth session, the resolutions of the Council on several reports of the specialized agencies simply took note of these reports. However, by resolution 407 (XIII), the Council also expressed its appreciation for the inclusion in the report of ITU of the items which it had requested by resolution 328 (XI), noted with satisfaction that ITU had postponed the holding of certain scheduled conferences which had been found to be less urgent, and (a point of special relevance to Article 64) invited ITU to summarize briefly in its future annual reports action taken in response to recommendations made to it by the Council or by the General Assembly. By resolution 411 (XIII), the Council noted the outstanding accomplishments reported by IRO in repatriating and resettling refugees, and commended it on the substantial completion of its task.

63. The Council has not dealt with the general subject of the implementation of its recommendations by specialized agencies. However, an example of specific action by the Council in this connexion is to be found in resolution 208 (VIII), by which the Council noted "the report submitted by IRO in implementation of Council resolution 157 (VII)".

B. Reports from Members of the United Nations on steps taken to give effect to recommendations of the Economic and Social Council and of the General Assembly on economic and social matters

64. This section deals with the following questions which have arisen in the General Assembly and in the Council: (a) the purposes of Article 64; (b) types of recommendations suitable for reports by Governments under Article 64; (c) the obligation of Member Governments to provide reports; (d) the meaning of the term "arrangements"; (e) the question of the evaluation of reports from Governments; and (f) the observations of the Economic and Social Council on the reports of

Member Governments, including the competence and obligation of the Council to communicate its observations on such reports under Article 64 (2).

65. The last part of section B deals with the observations of the Council and the communication of these observations to the General Assembly under Article 64 (2).

1. Purposes of Article 64, as interpreted in debates on General Assembly resolution 119 (II) and on the relevant resolutions of the Economic and Social Council

66. General Assembly resolution 119 (II) stated explicitly that it was "in fulfilment of Article 64 of the Charter" that it recommended that the Secretary-General should report annually to the Council and that the latter should report to the General Assembly on steps taken by Governments to give effect to recommendations.

67. At the second session of the General Assembly, the debate in the Second Committee on those parts of the original draft resolution 63/ which later became resolution 119 (II) was not extensive, and thereafter the debates in the Council have dealt mainly with procedural aspects of the question; thus the objects of resolution 119 (II) have not been set out definitely and comprehensively in the relevant proceedings. 64/ However, the discussions afford some interpretation of the purposes of the relevant resolutions and, by inference, of Article 64 from which they stemmed.

68. It was pointed out 65/ that if resolutions were to be adopted but not implemented "the United Nations would lose all prestige and would wither away." It was also stated that no answer had been provided to the question of the extent to which resolutions had been implemented by Member Governments, and that the Economic and Social Council was in a position to obtain such information under Article 64. The provisions of the draft resolution, however, were considered unnecessary by certain representatives on the ground that they were already covered by Article 64; others thought that the adoption of the draft resolution would give the Council and its subsidiary organs the strength and authority needed in order to perform the activities entrusted to them by the Charter. 66/

69. When this matter was taken up by the Council at its eighth session, 67/ in connexion with resolution 210 (VIII), there seemed to be agreement that the question was of fundamental importance. 68/ The view was expressed that it was the duty of the Council consistently to follow up the measures taken by Governments, not only to determine the results of the instructions of the Council, but also to gain experience with a view to determining the best methods for the future. 69/

62/ For a summary of proceedings of the United Nations on the subject of implementation of recommendations on economic and social matters, with a complete set of references to all relevant documents, and for a review of the basic objects of G A resolution 119 (II) and of the scope and limitations of the process established by the resolution, see E S C (X) Annexes, a.i. 23, E/1561 and Add.1, p. 1.

63/ G A (II), 2nd Com., annex 2 a (A/C.2/108), p. 120; part of this draft was later included in G A resolution 118 (II).

64/ E S C (X), Annexes, a.i. 23, E/1561/Add.1, para. 11.

65/ G A (II), 2nd Com., 33rd mtg., pp. 8 and 9.

66/ G A (III), 2nd Com., 43rd mtg., pp. 61, 64 and 65.

67/ See E S C (VIII), 281st and 282nd mtgs.

68/ E S C (VIII), 282nd mtg., p. 3.

69/ E S C (VIII), 281st mtg., pp. 14 and 15.

70. At the ninth session, 70/ when the Council, by resolution 255 (IX), set up an ad hoc Committee to examine the whole question of obtaining reports from Governments on their implementation of recommendations, the view was expressed that reports from Member Governments were the only means of ensuring that recommendations were actually being carried out, since neither the Assembly nor the Council possessed powers of compulsion, that the reports should be in sufficient detail to give the Council a clear picture, and that the Council should not submit the reports directly to the General Assembly without considering them. 71/ It was also felt that it was the duty of the Council not to underline the shortcomings of individual Governments, but to ascertain how far its resolutions had in fact been effective. 72/

71. Finally, the Ad Hoc Committee on the Implementation of Recommendations on Economic and Social Matters in its report to the Council at its tenth session formulated the purpose of the reporting procedure as set forth below:

"The Committee considered that the primary concern of the United Nations in studying the implementation of its recommendations on economic and social matters was to improve its methods of work and the effectiveness of its decisions. A regular study of the implementation of these recommendations should help to show the extent to which they were being carried out or were capable of being carried out, and should disclose those weaknesses which had occurred in the methods of work so far employed in the United Nations. Such an examination might also draw attention to resolutions which required reconsideration because they had proved ineffective or were out of date.

"The Committee appreciated that Governments which were in different stages of economic and social development might encounter different problems in trying to carry out recommendations and that progress might be slow in some fields of the Council's work. The objective in studying implementation was not to pillory Governments which had been unable to carry out fully the recommendations made or to report adequately on the matter, but to assist Governments in reporting and thus to help them in carrying out the recommendations of the United Nations."

72. This statement was incorporated in Council resolution 283 (X) as paragraphs 6 and 7 of the annex.

2. Types of recommendations suitable for reports by Governments under Article 64

73. Recommendations to Governments have been expressed in various ways, and the determination of those recommendations which are suitable for reports by Governments has presented a number of problems. In some cases the Council or the General Assembly has recommended action directly to Member Governments, or has urged or invited Governments to take action or has expressed the earnest hope that Governments would take certain actions. 73/ Some recommendations have been expressed in very general terms and have represented general statements of principle rather than indications of

70/ E S C (IX), 293rd to 295th mtgs.

71/ E S C (IX), 292nd mtg., p. 12; see also paras. 79-81 below regarding evaluation of reports from Governments.

72/ E S C (IX), 293rd mtg., pp. 19 and 20.

73/ E S C (X), Annexes, a.i. 23, E/1561/Add.1, para. 20.

specific action to be taken by Governments. In considering recommendations for inclusion in the lists to be circulated to Governments by the Secretary-General under General Assembly resolution 119 (II) and Council resolution 283 (X), the Ad Hoc Committee on Implementation ^{74/} pointed out that many resolutions were vague in language or covered too wide a field for Governments to report on, and it excluded recommendations which it considered to be only general statements of principle or recommendations expressed in such wide and general terms that they were not suitable to be the subject of reports by Governments on action taken. ^{75/} The Committee also excluded from the lists to be circulated to Governments recommendations which fell under the procedure for reporting to the General Assembly by some organ of the United Nations other than the Economic and Social Council, such as the United Nations International Children's Emergency Fund (UNICEF). Recommendations of these kinds, although included in the earlier lists circulated by the Secretary-General, have not been regarded, since the adoption of Council resolution 283 (X), as "recommendations" within the meaning of Article 64.

74. The basic test applied in determining which "recommendations" fell within the meaning of Article 64 and of General Assembly resolution 119 (II) appears to have been that they have required specific action on the part of Governments. ^{76/} Recommendations of this kind have included the following three varieties:

(a) Recommendations or requests that Member Governments take specific action, not accompanied by specific requests for, or indications concerning, reports expected from Governments on the action taken. ^{77/} On recommendations of this type, the Council has obtained reports from Governments made in response to requests from the Secretary-General under the procedures established by the Council by resolution 283 (X). In some cases, the Secretary-General has obtained information from Governments in other contexts. For example, a resolution may have recommended that Governments sign a protocol or ratify a Convention, in which case the Secretary-General, in exercising his functions in connexion with signatures for ratification of such instruments, has received the necessary information from Governments;

(b) Recommendations or requests that Member Governments take specific action, together with a request that Governments report on the action taken. ^{78/} Some of these have specified a date or the particular session of the Council ^{79/} or of the General Assembly before which the Governments were expected to supply these reports. When recommendations for action have been accompanied by a request for a report from Member

^{74/} E S C resolution 283 (X), annex, para. 9.

^{75/} Ibid., para. 14 (a); see also the list of resolutions in appendix I to resolution 283 (X).

^{76/} E S C (X), Annexes, a.1. 23, E/1561/Add.1, para. 22.

^{77/} For example, E S C resolution 123 E (VI) and G A resolutions 57 (I), 96 (I) and 133 (II).

^{78/} For example, G A resolutions 48 (I), 127 (II) and 137 (II) and E S C resolutions 41 (IV) and 121 (IV). Some resolutions, like E S C resolution 221 E (IX) on full employment, have resulted in periodic reports from Governments based on questionnaires.

^{79/} See for example, E S C resolution 341 (XII) on the world economic situation, G A resolution 523 (VI) on integrated economic development and commercial agreements, and E S C resolution 370 (XIII) on land reform.

Governments, the request has usually specified that the report be sent to the Secretary-General. In some instances, however, the request for reports has not been made directly to Member Governments but to the Secretary-General, who has been asked to request Governments for their reports. 80/

(c) Recommendations requesting that Governments send comments on reports or on proposed conventions and protocols, or that they provide factual information for reports to be prepared for the Council, but which have required no action on the part of Governments other than the provision of the information requested. In some cases, the request has been made indirectly, through the Secretary-General, who has been asked to submit a report, it being understood that he would obtain the necessary information from Governments. Some of these recommendations have been accompanied by clauses indicating the date or the approximate time when the information from Governments was expected.

75. All three types of recommendations have been included in the lists of recommendations circulated by the Secretary-General to Governments under General Assembly resolution 119 (II) and Council resolution 210 (VIII). 81/ However, the recommendations of the Ad Hoc Committee on Implementation which were accepted by the Council by resolution 283 (X) specified 82/ that thereafter the Secretary-General should not include in these lists "resolutions asking for information which the Secretary-General or specialized agency has since obtained or taken steps to obtain. These include requests for specific information, such as statistics and regular reports and for replies to specific questions". Consequently, the types of recommendations described in paragraph 74 (b) and (c) above, as well as some described in paragraph 74 (a) above in connexion with which the Secretary-General had come into possession of information in other contexts, were omitted from the lists circulated in accordance with Council resolution 283 (X). It should be noted, however, that resolutions embodying all three types of recommendations have been included in the reports 83/ submitted by the Secretary-General to the Council under resolution 283 (X), the reports indicating those recommendations which the Secretary-General had circulated in his special lists and those on which he had obtained information in another context or in response to specific requests. The report of the Secretary-General (E/2166) submitted to the Council at its fourteenth session covered twelve recommendations of the type described in paragraph 74 (a) above which had been circulated by the Secretary-General, and eighteen recommendations of the types described in paragraph 74 (b) and (c) above which had included requests for specific information on action taken or for comments on reports or other factual material.

76. Although resolution 450 (XIV), by which the Council discontinued the circulation of lists of recommendations to Governments and the general reporting procedure, stated that the Council itself "decides to include in the future wherever practicable, in its resolutions specific indications of the timing of the report expected from governments in implementation of the resolutions concerned," both the General Assembly

80/ See for example, E S C resolution 123 A (IV); also E S C resolution 370 (XIII) on land reform requesting the Secretary-General to make periodic reports based on questionnaires.

81/ See reports based on the replies received, E/963 and Adds.1-47, and E S C (IX), Annexes, pp. 228 *et seqq.*

82/ E S C resolution 283 (X), annex, para. 14 (b).

83/ E/2166 and E/2165 and Adds.1-47.

and the Council have subsequently adopted resolutions of all three types indicated above. ^{84/} The Council, since the adoption of resolution 450 (XIV), has adopted forty-nine recommendations indicating that action was required by Governments, without asking for any report thereon, three recommendations specifying action and a report thereon (two of these also indicating the timing of the reports), and twenty-three recommendations for reports or comments that required no other action (nine of these indicating the timing of the reports or comments).

3. *Obligation of Member Governments to furnish reports*

77. In the consideration by the General Assembly of the draft resolution which became resolution 119 (II), problems of a constitutional nature were not raised. However, at the eighth session ^{85/} of the Council, doubts were expressed whether Member Governments had a legal obligation to provide reports or whether the resolutions of the Council intended to implement General Assembly resolution 119 (II) and to establish specific procedures for obtaining reports from Governments exceeded the powers conferred on the Council by Article 64. At the ninth session of the Council, ^{86/} the point was made that the economic and social matters dealt with under Articles 55 and 59 generally lay within the domestic jurisdiction of Members. ^{87/} The majority of the representatives, however, maintained that Article 64 and General Assembly resolution 119 (II), in conjunction with Article 56, provided a valid basis for the action contemplated by Council resolution 210 (VIII). In the discussion in the Joint Second and Third Committee at the fourth session of the General Assembly, ^{88/} the view was expressed that, while it was the duty of all Member Governments to give full consideration to all recommendations, they could not be considered as mandatory and no attempt should be made to increase the present power of the Council to supervise their implementation.

78. Finally, at the request of some members of the Ad Hoc Committee on Implementation of Recommendations on Economic and Social Matters, the Legal Department of the Secretariat submitted a memorandum ^{89/} dealing with these questions.

79. The memorandum stated that an analysis of the discussion on Article 64 (1) at the San Francisco Conference had led the Legal Department to draw the following conclusions:

"It was the intention of the draftsmen to make clear that this Article did not imply a legal obligation on the Organization of Members to furnish the reports in question. This intention is clearly stated in the records of the Co-ordination Committee which made the final draft. Such phrases as the Council 'is empowered to obtain' or 'is authorized to obtain' were rejected in favour of the present language in order to remove any implication of legal obligation.

"On the other hand, there seems to have been no intention in the drafting of this Article to detract from the general obligation of co-operation contained in Article 56.

^{84/} In some cases resolutions have included more than one recommendation.

^{85/} E S C (VIII), 281st mtg., pp. 15 and 16; E S C (X), Annexes, a.i. 23, E/1561, para. 8.

^{86/} E S C (VIII), 293rd mtg., p. 5.

^{87/} See also in this Repertory under Article 2 (7).

^{88/} G A (IV), Joint 2nd and 3rd Com., 44th mtg.

^{89/} E S C (X), Annexes, a.i. 23, E/1567, p. 15.

"Thus the representative of Canada said in the Co-ordination Committee:

"The authorization to request this information goes quite a long way, and coupled with the general undertaking of all Members to co-operate in pursuing the general purposes of the Organization probably would take care of the problem."

"The representative of India, speaking as Chairman of the Technical Committee, stated on the same occasion:

"We were quite certain that we could not obligate the Member States, therefore, that was not the idea. On the other hand, we felt a sort of moral obligation."

"Thus the Chairman of the Co-ordination Committee stated:

"The Committee has used the word 'obtain', and I imagine has used it advisedly, as meaning both the power to receive and the power to take steps towards getting the reports."

4. *Meaning of the term "arrangements"*

80. At the ninth session of the Council the question whether making "arrangements" under Article 64 for reports from Governments required negotiation with the Governments concerned had also been raised. On this point the above-mentioned memorandum of the Legal Department of the Secretariat had stated:

"The record is not entirely clear on whether the term 'arrangements' was to be used in the sense of a procedure, or in the sense of a formal agreement. The Legal Department has concluded that the term may properly be interpreted as not requiring a formal agreement for the following reasons:

"(a) Where it was clearly desired that the Charter provide for formal agreement, the word 'agreement' has been used; e.g., Articles 43, 63, 77.

"(b) The words 'may make arrangements' were inserted into the Charter by the Co-ordination Committee for the purpose of making clear the lack of legal obligation on the Members, rather than with the desire to indicate a precise method of obtaining reports.

"(c) The Economic and Social Council and the General Assembly have, by their resolutions on implementation of recommendations, adopted the construction that formal agreements were not necessary.

"(d) This construction is supported by certain positive evidence in the San Francisco records, despite some ambiguity of the records as a whole on this point.

"Thus the representative of the Union of Soviet Socialist Republics asked the following question: 'In what sense do you use the word 'arrangement' in this connexion: in the sense of an agreement or in the sense of measures?' The Chairman of the Technical Committee replied, 'Measures'.

"(e) The fact that the parallel provision regarding reports from specialized agencies has been implemented by means of the agreements provided for in Article 63, does not affect the conclusion that formal agreements are not required with the Member States. It was clearly recognized by the draftsman that a distinction could be made between 'arrangements' with specialized agencies and 'arrangements' with Members.

"Thus the representative of Canada stated that: 'There would be different kinds of arrangements. For instance, when you come to deal with the specialized organizations, that would be part of the agreement.'"

81. The Ad Hoc Committee took no action on the memorandum of the Legal Department other than to refer to it in its report. 90/ The Council, at its tenth session, in accepting the recommendations of the Ad Hoc Committee, likewise took no specific decision on the memorandum of the Legal Department.

5. *The question of evaluation of reports of Governments*

82. At the eighth session of the Council, during the debate which preceded the adoption of resolution 210 (VIII), the question arose whether the report submitted by the Secretary-General to the Council should include an evaluation of the reports provided by Governments. The point of view was emphasized that the Secretary-General should in no case pass judgement on the replies received from Governments, but that the responsibility for evaluating replies should be left to the Council. 91/ Paragraph 5 of Council resolution 210 (VIII), in explicitly requesting the Secretary-General to transmit a report containing (a) a fully annotated list, and (b) a factual statement regarding the extent to which Governments had not reported on the implementation of the recommendations, implied that the Secretary-General was not to evaluate the reports of Governments.

83. At the ninth session of the Council it was pointed out that, if the procedure involved evaluation of replies either by the Secretary-General or by the itself, Member States the replies of which were under consideration would under Article 69, have to be invited to participate in the proceedings of the Council, and that this would have far-reaching implications. 92/ At the same time, the view was expressed that the Council should not submit the Governments' reports directly to the General Assembly without first considering them. 93/

84. Finally, the Council, by resolution 283 (X), accepted the point of view of the Ad Hoc Committee as expressed in paragraph 18 of its report, that "the Secretary-General should not have to evaluate the substance of the replies submitted to him." The report of the Ad Hoc Committee, however, did not state specifically whether the Council itself should or should not evaluate the reports of Governments, and paragraph 20 of the report did not mention evaluation among the actions which the Council might take.

85. In point of fact, the Council, in its reports to the General Assembly, has never evaluated the reports of individual Governments. Its observations have been limited to general statements. 94/

90/ E S C (X), Annexes, a.i. 23, E/1585, para. 4.

91/ E S C (VIII), 281st and 282nd mtgs.

92/ E S C (IX), 293rd mtg., p. 5.

93/ E S C (IX), 292nd mtg., p. 12.

94/ See para. 91 below.

6. *Observations of the Economic and Social Council under Article 64 (2)*

86. Under Article 64 (2), which states that the Council "may communicate its observations on these reports to the General Assembly", the Council has exercised its power not by presenting special reports but by including information on this subject in its annual report to the General Assembly.

87. Article 64 (2), as indicated by the use of the word "may", is permissive in character and leaves the form and frequency of the report of the Council to the General Assembly to the discretion of the former. Its application, however, has been affected by General Assembly resolution 119 (II) and by Council resolutions 283 (X) and 450 (IV). By resolution 119 (II), the General Assembly recommended that "the Secretary-General report annually to the ... Council and that the latter report to the General Assembly on steps taken by the Member Governments to give effect to the recommendations," but it gave no indication as to the form of the report of the Council. Council resolution 210 (VIII) did not deal with the question of the report of the Council to the General Assembly. Under Council resolution 283 (X), the report of the Council on implementation was established as a part of the biennial reporting procedure and the Council decided that this report "would normally be part of the Council's regular report and should not be a separate report under a special item on the agenda of the General Assembly unless the particular circumstances of the time justify it." ^{95/} Finally, by resolution 450 (XIV), the Council, while discontinuing the special biennial reporting procedure, retained the principle that its report to the General Assembly on this subject should be in the form of information included in its annual report, and retained its power to submit special items in this connexion for the consideration of the General Assembly. ^{96/}

88. It should be noted that during the period when the biennial reporting procedure under Council resolution 283 (X) was in force, no provision in this resolution prevented the Council from including in its annual report for the "off years" information concerning reports from Governments on specific recommendations which fell outside the general procedure. In fact, since the adoption of General Assembly resolution 119 (II), every annual report of the Economic and Social Council to the General Assembly has included a separate section dealing with the general question of implementation of recommendations by Member Governments as well as discussions in other parts of the report on information provided by Governments on the implementation of specific recommendations, for example, on those dealing with full employment, land reform, the status of women and narcotics.

89. After the adoption of Council resolution 450 (XIV), the reports required annually from the Secretary-General under General Assembly resolution 119 (II) have been those which he has presented on individual recommendations, the reports required from the Council constituting the separate sections ^{97/} of the report of the Council dealing with the implementation of recommendations as well as the sections dealing with replies of Governments to the specific requests of the Secretary-General for information. ^{98/}

^{95/} E S C resolution 283 (X), annex, para. 24.

^{96/} E S C resolution 450 (XIV) left paras. 20, 21 and 24 of the annex of Council resolution 283 (X) operative.

^{97/} For example, G A (IX), Suppl. No. 3 (A/2686), Chap. VI, paras. 833-867.

^{98/} Ibid, paras. 141, 142, 146, 152-155 and 806.

90. The debates in the General Assembly and in the Council on this topic have dealt, to a relative limited extent, with the specific kinds of "observations" the Council was expected to communicate. As indicated in paragraphs 82-85 above, little has been said as to whether the Council had either the privilege or the obligation to evaluate the reports of Governments, although the opinion was expressed at the eighth session of the Council that the Council should not relinquish the responsibility of "considering" replies before transmitting them to the General Assembly. 99/

91. In its reports the Council has not set forth observations or opinions on the substance of the reports of individual Governments in the general section on implementation or in the sections dealing with reports from Governments on resolutions making specific requests for information. In some instances, however, the Council has commented in general terms on the adequacy of information supplied by Governments for the purpose of the preparation by the Secretary-General of special reports requested by the Council. 100/ Furthermore, in its resolution 450 (XIV), the Council, after noting the increasing tendency of the General Assembly and the Council to adopt resolutions which required specific reports within specified time-limits, stated that the record of replies to such resolutions was satisfactory.

92. Council resolution 450 (XIV) discontinued the application of those paragraphs of the report of the Ad Hoc Committee on the Implementation of Recommendations on Economic and Social Matters which pertained to the biennial cycle for reporting. 101/ However, it left paragraphs 20, 21 and 24 of the report, dealing with the action which the Council might take under its resolution 283 (X), operative. Action which the Council may, therefore, still take is indicated in those paragraphs as follows:

"20. The action which the Council may take when it reviews the implementation of recommendations will vary with the recommendation itself. If the Council decides that it is necessary to take action on any particular recommendation (or group of recommendations), it will have the following courses open to it:

- "(1) To call for fuller or additional reports;
- "(2) To revise or interpret a resolution adopted earlier;
- "(3) To recommend the revision of a convention or protocol adopted earlier;
- "(4) To place the question involved on the agenda of a subsequent session of the Council or of the General Assembly;
- "(5) To refer it to a specialized agency or to a functional or regional commission;
- "(6) To adopt some other means of studying the question involved, for example by referring it to an ad hoc committee or asking the Secretary-General to prepare a report.

"21. In the opinion of the Committee, the Council should also periodically select a particular field for more detailed study as to how far resolutions adopted in the past had been carried out and had proved adequate. The manner in which the Council does this will depend on the question involved; it might, for instance, be referred to a specialized agency, a functional or regional commission or a group of experts."

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99/ E S C (X), Annexes, a.i. 23, E/1561, p. 11.

100/ See footnote 98 above.

101/ E S C resolution 283 (X), annex, paras. 12-19, 22, 23 and 25.

"24. In the opinion of the Committee, the Council's report on implementation to the General Assembly would normally be part of the regular report of the Council and should not be a separate report under a special item on the agenda of the General Assembly unless the particular circumstances of the time justify it. The Council might wish from time to time to propose special items for the General Assembly's agenda as a result of its consideration of the implementation of recommendations: for example, it might wish to recommend the revision of a convention."

93. The Council has so far neither selected a particular field for detailed study, as suggested in paragraph 21 of the report of the Ad Hoc Committee 102/ nor proposed special items for the agenda of the General Assembly or recommended revision of a convention as a result of its consideration of the implementation of recommendations, as suggested in paragraph 24 of the report.

94. The Council has, of course, from time to time taken action of the various kinds suggested in paragraph 20 of the report. These actions, however, have been taken not as a result of a review of the implementation per se of recommendations, but as the result of a study of the substantive problems involved. For example, the Council, after reviewing the problem of full employment, adopted resolutions 290 (XI) and 371 (XIII) by which it amended the questionnaire on full employment authorized under its resolution 221 E (IX), in order to obtain additional and fuller reports from Governments. 103/ Similarly, by resolution 525 (XVII), the Council urged all Governments which had not done so to reply accurately and fully to the questionnaire on slavery which had been authorized under resolution 276 (X); it also invited other Governments to forward any additional data or information which they thought necessary or appropriate.

95. In the field of narcotic drugs, the Council adopted a special resolution, 246 B (IX), by which the Council,

"Being informed that it is essential for the Commission on Narcotic Drugs, in the exercise of its supervision over the application by Governments of the provisions of the international instruments on narcotic drugs, including those synthetically produced, to be furnished with complete and accurate information regarding such application,

"Authorizes the Secretary-General to ask Governments to furnish such explanations or additional information regarding statements contained in annual reports, seizure reports, texts of laws and regulations or in other reports or documents forwarded by them to the Secretary-General, as may be necessary to enable the Commission on Narcotic Drugs to discharge its functions."

96. By resolution 450 (XIV), the Council retained the principle, set forth earlier by resolution 283 (X), that the report of the Council to the General Assembly on the implementation of recommendations should not be a special document, but should consist of information included each year in the regular annual report of the Council. The separate section of the report dealing with implementation of recommendations does not present information in extenso on the substance of replies from Governments; instead, in keeping with General Assembly resolution 593 (VI) on the control and limitation of documentation, this section refers to the various substantive sections of the report and to other documents and reports which include information concerning replies received from Governments during the period covered by the report.

102/ The purpose of this paragraph was repeated in E S C resolution 450 (XIV), para. 3.

103/ See also G A (V), Suppl. No. 3 (A/1345), para. 93.

97. It would thus appear that after experimenting with general over-all methods of reporting, the Council has decided that, on the whole, its own needs are best served and the requirements of Article 64 of the Charter and of General Assembly resolutions 119 (II) and 593 (VI) are best fulfilled by relying on reports from Governments on individual resolutions forming the basis of the reports required of the Secretary-General which, in turn, serve as a basis for the information submitted to the General Assembly in the regular annual report of the Council.