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**RULES OF PROCEDURE CONCERNING RECOMMENDATIONS TO
MEMBER STATES AND INTERNATIONAL CONVENTIONS COVERED BY
THE TERMS OF ARTICLE IV, PARAGRAPH 4, OF THE CONSTITUTION:
PROPOSALS BY THE DIRECTOR-GENERAL
FOR THE AMENDMENT OF PART VI THEREOF**

OUTLINE

Source: 31 C/Resolution 13.II; 165 EX/Decision 6.2.

Background: At its 31st session, the General Conference expressed the view that Section VI of the Rules of Procedure concerning recommendations to Member States and international conventions, covered by the terms of Article IV, paragraph 4, of the Constitution should be amended and invited the Director-General to submit proposals to this effect at its 32nd session.

Purpose: This document contains proposed amendments to Section VI of the Rules of Procedure concerning recommendations to Member States and international conventions.

Decision required: paragraph 7.

PART I – INTRODUCTION

1. At its 31st session, the General Conference noted with concern the Member States' difficulties in complying with the provisions of Article 16 of the Rules of Procedure concerning conventions and recommendations covered by Article IV, paragraph 4, of the Constitution, whereby the Member States are required to inform the Organization of the action they have taken in pursuance of conventions or recommendations adopted by the General Conference. On that occasion, the General Conference expressed the view that Section VI of the above-mentioned Rules of Procedure should be amended and invited the Director-General to submit proposals to this effect at its 32nd session (31 C/Resolution 13.II).

2. At its 165th session, the Executive Board, having considered the proposals of its Committee on Conventions and Recommendations on the conditions and procedures applicable to the examination of questions relating to the implementation of UNESCO's standard-setting instruments, adopted a decision in which it specifies a series of measures designed to ensure wider acceptance and effective application of the aforesaid instruments (165 EX/Decision 6.2 – the text of that decision is annexed to the present document). In paragraph 7 of its decision, the Executive Board recommends to the General Conference that, in order to rationalize the existing reporting modalities, it establish new procedures for reporting by Member States making a clear distinction between conventions and recommendations, suggesting in particular that, to this end, a revision of Section VI of the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution should be undertaken.

3. The Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education established by the Executive Board¹ in October 2001, on the occasion of its first meeting at UNESCO Headquarters on 19 May 2003, examined, within the framework of its mandate, the possibilities for reducing the reporting burden on States in relation to the right to education and identify ways in which arrangements could be both streamlined and made more effective. Referring to 165 EX/Decision 6.2 of the Executive Board mentioned above, it recommended that Section VI of the Rules of Procedure concerning conventions and recommendations covered by Article IV, paragraph 4, of the Constitution concerning the submission of reports, should take into account a rights-based approach with respect to the conventions in the field of education. "This would facilitate the cooperation between UNESCO and the CESCR but also make it easier to monitor the right to education, if a rights-based approach was adopted. UNESCO would rather have to seek information on the fulfilment of the rights than on their protection. That way, UNESCO's reporting system could, in the final analysis, be fed into the reports to be presented. As UNESCO deals with plans of action, policies and strategies, etc., it would also be useful to CESCR and its work as far as the Covenant on Economic, Social and Cultural Rights is concerned."

4. The efforts made so far with a view to improving the existing monitoring procedures, based on reports submitted by Member States, have not brought about any significant result. For the purpose of the present document, it does not seem necessary to review again the diagnoses of the present state of affairs in this respect. This has already been done in other documents, e.g. in document 165 EX/21. Moreover, as pointed out in a study the conclusions of which are reproduced in document 27 C/INF.6: "The effective application of standard-setting instruments by Member States, which should be primary concern, may even be lost from view behind a secondary consideration – the operation of a monitoring procedure". The debate which recently took place in the Executive Board seems to indicate that there is a growing awareness among the Member States

¹ See 162 EX/Decision 5.4.

of this particular aspect of the matter. Better results may perhaps be obtained if the reporting or monitoring procedures, improved as they should be, were regarded as part of overall promotional efforts aiming at ensuring a wider acceptance and effective application of the standard-setting instruments.

5. The proposals contained in this document have been put forward bearing in mind the above-mentioned considerations and purposes.

PART II – PROPOSED AMENDMENTS TO SECTION VI OF THE RULES OF PROCEDURE CONCERNING RECOMMENDATIONS TO MEMBER STATES AND INTERNATIONAL CONVENTIONS

6. The General Conference may wish to consider the following amendments to Section VI of the above-mentioned Rules of Procedure:

VI. Procedures for promoting Member States' acceptance and application of conventions and recommendations adopted by the General Conference

New Article 16

1. While transmitting, pursuant to Article 15 of the present Rules, a certified copy of any convention or recommendation to Member States, the Director-General shall explicitly remind them of their obligation to submit the convention or recommendation in question to their competent national authorities in accordance with Article IV, paragraph 4, of the Constitution, drawing also their attention to the difference in the legal nature of conventions and recommendations in order to assist them in choosing the measures appropriate to give effect to each convention or recommendation.
2. The text of any convention or recommendation shall also be made known, preferably through the intermediary of National Commissions, to the bodies, target groups and other entities interested in matters dealt with in the respective convention and recommendation.

Article 17

(old Article 16 with a modification in bold)

1. Member States shall submit to the General Conference special reports on the action they have taken to give effect to conventions or recommendations adopted by the General Conference.
2. Initial reports relating to any convention or recommendation adopted shall be transmitted no less than two months prior to the first ordinary session of the General Conference following that at which such recommendation or convention was adopted.
3. The General Conference may further request Member States to submit, by prescribed dates, additional reports giving such further information as may be necessary. **To this end, it may call upon the Secretariat to assist Member States in the preparation and follow-up of such periodic reports.**

Article 18
(old Article 17)

At the first ordinary session following that at which a convention or recommendation has been adopted, and at any subsequent session, if it so decides, the General Conference shall consider the special reports submitted by Member States in connection with the convention or recommendation in question.

New Article 19

The General Conference shall entrust the examination of the reports on such conventions and recommendations received from Member States to the Executive Board so that they could be considered by its subsidiary organ responsible for examining Member States' reports on the application of conventions and recommendations.

New Article 20

1. In the case of conventions, requests for submission of periodic reports by Member States may be made following a rights-based approach depending on the nature and contents of the conventions [particularly in the field of education].
2. With respect to recommendations, requests for submission of periodic reports by Member States shall be organized by sector and in a manner which reflects the policy priorities of the Organization.

New Article 21

Subsequently, the reports or, if so decided by the General Conference, the analytical summaries thereof, shall be submitted to the General Conference together with any observations or recommendations that the Executive Board or the Director-General may consider appropriate. They shall be examined by the competent programme commissions prior to their consideration in plenary meeting.

VII. Suspension and amendment

Article 22
(old Article 20 with a modification in bold)

If there are special circumstances justifying such a course in any particular case, the General Conference may decide, by a two-thirds majority, to suspend the application of one or more provisions in the present Rules of Procedure, **except when they reproduce provisions of the Constitution.**

New Article 23

These Rules, except when they reproduce provisions of the Constitution, may be amended by a decision of the General Conference taken by a two-thirds majority, provided that the proposal for amendment has first been placed on the agenda.

PART III – DRAFT RESOLUTION

7. After examining this document, the General Conference may wish to adopt a resolution along the following lines:

The General Conference,

1. Having considered document 32 C/22 and taken note of the report of the Legal Committee (32 C/LEG/....),
2. Decides to approve the amendments contained in Part II of (as modified by the Legal Committee).

ANNEX

165 EX/Decision 6.2

The Executive Board,

1. Recalling 164 EX/Decision 5.2,
2. Having examined document 165 EX/21,
3. Considering the proposals submitted to it by the Committee on Conventions and Recommendations (CR) on the conditions and procedures applicable to the examination of questions relating to the implementation of UNESCO's standard-setting instruments,
4. Mindful of the need to improve the effectiveness of the Committee's mandate and of the reporting system on UNESCO conventions and recommendations in general,
5. Reminds Member States to respect their legal obligations under the UNESCO Constitution concerning periodic reports on the follow-up to conventions and recommendations;
6. Calls upon the Secretariat to assist Member States in the preparation and follow-up of their periodic reports;
7. Recommends to the General Conference that, in order to rationalize such reporting procedures, it establish new procedures for reporting by Member States making a clear distinction between conventions and recommendations; to this end, a revision of Section VI of the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution should be undertaken;
8. Decides to examine, in the light of such revision, the possibility of preparing a set of rules of procedure for CR concerning the examination of reports on conventions and recommendations;
9. Decides, pending the adoption of new reporting procedures by the General Conference, to:
 - (a) request the Secretariat to rationalize the guidelines communicated to Member States for periodic reports having regard also to already existing information monitored by other treaty bodies in the United Nations system as well as by international statistical offices, in particular by the UNESCO Institute for Statistics;
 - (b) invite the Director-General to organize on the sidelines of the General Conference, a meeting of States Parties to conventions on which reports are due in the near future (for example in 2003, the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property; in 2005, the 1960 Convention against Discrimination in Education) so that they can adopt appropriate measures to improve the reporting procedures on the conventions;

- (c) suggest, with regard to recommendations, that requests for submission of periodic reports by Member States should be organized by sector and in a manner which reflects the policy priorities of the Organization;
 - (d) call upon the Secretariat to use all avenues available to inform Member States about the most important aspects of recommendations and to sensitize them to the importance of such reports;
10. Decides that the above-mentioned measures will be applicable only to the conventions and recommendations entrusted to CR until an appropriate decision has been taken by the General Conference:
- (a) the Convention (and Recommendation) of 1960 against Discrimination in Education;
 - (b) the 1966 Recommendation concerning the Status of Teachers;
 - (c) the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;
 - (d) the 1974 Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms (including follow-up instruments);
 - (e) the 1976 Recommendation on the Development of Adult Education;
 - (f) the 2001 Revised Recommendation concerning Technical and Vocational Education;
11. Decides that UNESCO should continue to work with other institutions of the United Nations system with the aim of standardizing the procedure for the submission and examination of Member States' reports;
12. Decides to re-examine this item in 2006 in the light of the results achieved by the above-mentioned measures.