



33 C/90
7 October 2005
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LEGAL COMMITTEE

First Report

The Legal Committee elected by acclamation Mr Pierre Michel Eisemann (France) as Chairperson, Mr Andrew Amegatcher (Ghana) as Vice-Chairperson and Ms Stephanie Zurawski (Saint Lucia) as Rapporteur.

Item 4.2 of the agenda (33 C/8/LEG)

EXAMINATION OF THE ADMISSIBILITY OF DRAFT RESOLUTIONS PROPOSING THE ADOPTION OF AMENDMENTS TO THE DRAFT PROGRAMME AND BUDGET FOR 2006-2007 (33 C/5)

1. Since its 29th session, the General Conference has adopted a procedure for processing draft resolutions proposing amendments to the Draft Programme and Budget. This procedure derives from an amendment introduced into its Rules of Procedures (see Rules 80 and 81).
2. The procedure established provides that the sponsors of those draft resolutions that at first sight appear inadmissible in the opinion of the Director-General may appeal to the General Conference, through the Legal Committee, to rule at last instance on their admissibility.
3. An explanatory note was prepared by the Legal Committee in November 2000 and communicated to all Member States so that they could submit draft resolutions of this nature meeting the requisite criteria. That note has been used again in the context of the 33rd session, in the light of the “finalization” undertaken by the Legal Committee at its November 2002 meeting.
4. Those criteria were followed by the Legal Committee when it examined the draft resolutions considered to be inadmissible in the opinion of the Director-General.
5. Having taken note of the withdrawal by the Member State concerned of draft resolution MS/DR.117, the Legal Committee recommended:
 - (i) that the following draft resolutions should be declared admissible: MS/DR.86 (solely in respect of operative paragraph 01320 of Part II of the Draft Programme and Budget, 33 C/5) and MS/DR.123 (in respect of operative paragraphs 02220 and 04100 of Part II of document 33 C/5 Revised);
 - (ii) that the following draft resolutions should be declared not admissible: MS/DR.47, MS/DR.67, MS/DR.79, MS/DR.121 and MS/DR.122.

6. The Legal Committee's proposal regarding MS/DR.47 does not prejudice the admissibility of this draft resolution under another provision of the Rules of Procedure of the General Conference.

7. The draft resolutions declared not admissible were so ruled because: they were not directed at one of the "operative paragraphs" of Part II of document 33 C/5; or they reached the Secretariat after the deadline; or they did not have international, regional or subregional scope.

8. In so doing, the Legal Committee recalled that it could rule only on the basis of the original wording of the draft resolutions submitted to it for examination.

9. In the course of this examination, the Committee decided to clarify the following points:

"The time limits referred to in Rule 80, paragraph 2 of the Rules of Procedure of the General Conference are applicable when the Director-General has transmitted to Member States the Draft Programme and Budget at least three months before the opening of the session of the General Conference pursuant to Rule 11, paragraph 2, of the Rules of Procedure. Where exceptionally this time limit has not been observed, the deadlines should be applied with some flexibility taking account of the date of communication of the Draft Programme and Budget, without however going beyond the date of the opening of the session of the General Conference.

If the Director-General transmits to Member States a revised Draft Programme and Budget less than three months before the opening of the session, the deadlines should be applied under the same conditions but only in respect of draft resolutions proposing the adoption of amendments to operative paragraphs modified by the said revised Draft."

10. In conclusion, the Committee decided to add the above provision in the form of a footnote to paragraph II.1 of the Explanatory Note for the Implementation of Rules 80 and 81, Section XIV, of the Rules of Procedure of the General Conference.