



United Nations
Educational, Scientific and
Cultural Organization

08/07/2009

Ref.: CL/3888

Subject: **Amendments to the Draft Programme and Budget for 2010-2011
(35 C/5)**

Sir/Madam,

In anticipation of the 35th session of the General Conference of UNESCO, which will be held from 6 to 23 October 2009, it is appropriate to recall the procedures to be followed by Member States in proposing amendments to the Draft Programme and Budget for 2010-2011 (35 C/5). These procedures will also be set out in the document concerning the organization of the work of the 35th session (35 C/2).

Your attention is kindly drawn to an important development concerning the Draft Programme and Budget for 2010-2011 (35 C/5), which was first sent to all Member States in April 2009 and also attached to my letter of invitation for the session (CL/3884).

During its examination, at its 181st session, of the budget issues relating to draft document 35 C/5, the Executive Board requested me "...to reinforce priority programmes, in particular those relating to Africa, and to further rationalize expenditure linked to Parts I and III." (181 EX/Decision 18 – Part II, para. 9).

At the conclusion of the Board session, I indicated that I would revise certain budget figures in the draft Programme and Budget and am now in the process of so doing. This will imply issuing, towards the end of July 2009, a revised version of the entire draft document 35 C/5, including the proposed Appropriation Resolution and all other proposed resolutions relating to the Programme and Budget for 2010-2011. In this revised document, certain volume reductions will be made in Parts I and III (and related thereto, possibly also some expected results stemming from such budgetary modifications). Furthermore, all budget figures will change as a consequence of revised inflation estimates. In any event, the strategic and programmatic elements of Volume 1 of draft document 35 C/5 will remain unchanged between the original draft herewith and the forthcoming revised draft document 35 C/5. Thus, the basis for the submission by Member States of draft amendments relating to the Draft Programme and Budget will remain the same.

Draft amendments are subject to the admissibility criteria and the procedures set forth in Rules 80 and 81 of the Rules of Procedure of the General Conference. In accordance with the wishes of the General Conference (30 C/Resolution 87), the Legal Committee adopted an "Explanatory Note" (see Annex I) which, since the 31st session of the General Conference, has provided the framework for the examination of the admissibility of draft amendments to the Draft Programme and Budget by the Secretariat and then, in certain cases, by the Legal Committee.

As recommended by the Executive Board at its 181st session (181 EX/Decision 32), this Note will again be used for the 35th session, in the light of the “finalization” undertaken by the Legal Committee at its November 2002 meeting (see Annex II).

With reference to these rules, I consider it useful to draw your attention to the following points:

1. Draft amendments to the Draft Programme and Budget (35 C/5) should reach the Director-General at least 45 days before the opening of the session, i.e. by **21 August 2009** at the latest; draft amendments received after that date will not be processed.¹
2. The letters by which the Director-General makes known whether the draft amendments received are considered admissible or not must reach the sponsors at least 20 days before the opening of the session, i.e. by **16 September 2009** at the latest. Any draft amendment for which a response is not received by that date will be considered admissible. Draft amendments considered inadmissible by the Director-General will not be distributed.
3. Nevertheless, any sponsor of a draft amendment considered inadmissible by the Director-General may appeal his conclusions no later than five days before the opening of the session, or **1 October 2009**. Any appeal not meeting the deadline or not reasoned will be rejected. Draft amendments that the Legal Committee recommends to the General Conference as admissible will be published as soon as possible.

The Legal Committee also defined the following criteria for declaring draft amendments that have “budgetary implications” as inadmissible:

1. Amendments that do not relate to a draft resolution proposed in document 35 C/5. (draft resolutions proposed in Volume 1 of document 35 C/5 (or in the revised draft 35 C/5 that you will receive shortly) are the only parts of the C/5 document that draft amendments can address).
2. Draft amendments the budgetary implications of which are equal to or lower than US \$40,000.
3. Draft amendments that are not of international, regional or subregional scope.
4. The activity proposed in draft amendments meets all the conditions required in order to be financed under the Participation Programme.

Irrespective of the Part of the budget concerned, Member States proposing draft amendments to document 35 C/5 (Volume 1) or document 35 C/5 Rev (Volume 1) are invited to indicate clearly the amount of their budgetary implications and, in all cases, the source of funding envisaged should they be adopted by the General Conference, namely, the **activity shown in document 35 C/5 or document 35 C/5 Rev. that would be curtailed or abolished for the purpose of releasing appropriate funds, or an attempt to find extrabudgetary resources**. For this purpose they are requested to use the form in Annex III.

¹ It is to be noted that this deadline applies to all draft amendments related to the Draft Programme and Budget (C/5) irrespective of their having budgetary implications or not.

It would be extremely difficult, if not impossible, for the Director-General to release appropriate resources to take action, during the execution of the Programme, on any resolutions that were to be adopted without the General Conference stipulating how their implementation should be financed. All resolutions adopted *in extenso* by the General Conference (and reproduced in Volume 1 of the Records), as well as other decisions taken on the basis of the Commission reports should, therefore, mention clearly the amount of resources needed and the method of funding envisaged for their implementation – either a drive to find extrabudgetary resources or the identification of equivalent reductions in the regular programme.

In this connection, it should be noted that draft resolutions proposing amendments (with budgetary implications) addressed to two or more resolutions contained in Volume I of the Draft Programme and Budget for 2010-2011 (35 C/5 or 35 C/5 Rev.) – i.e. involving multiple parts of the draft programme and budget assigned for the examination of two or more Commissions of the General Conference – will be examined by the Joint Meeting of Commissions, scheduled towards the end of the session. The General Committee of the General Conference may propose other, earlier arrangements for this kind of draft resolution depending on their nature and overall budgetary implications.

It should be noted that, according to the admissibility criteria mentioned above, draft resolutions are to be drafted as amendments (modification, deletion or addition) to the texts of the existing resolutions contained in Volume I of draft document 35 C/5 or draft document 35 C/5 Rev. The authors may wish to add a note of up to 20 lines to explain the aims and objectives of the amendment proposed. Additional text and/or formal wording (in the form of traditional resolutions for publication *in extenso* under other items of the agenda) will not be published. The attached form is designed to follow this procedure.

Member States are invited, when communicating to the Secretariat the drafts they wish to submit to the General Conference, to include a fax number which can be used for transmitting observations to them.

Accept, Sir/Madam, the assurances of my highest consideration.

Koïchiro Matsuura
Director-General

cc: National Commissions for UNESCO
Permanent Delegations to UNESCO

ANNEX I

“EXPLANATORY NOTE FOR THE IMPLEMENTATION OF RULES 80 AND 81, SECTION XIV, OF THE RULES OF PROCEDURE OF THE GENERAL CONFERENCE¹

I. *The purpose of this Note is to specify and, as appropriate, clarify the procedure for the submission and examination of draft resolutions referred to in Rule 80 of the Rules of Procedure of the General Conference (hereinafter called DRs). The draft resolutions concerned are those containing one or more amendments to the Draft Programme and Budget (the C/5 document) which have “budgetary implications” – that is, if approved, they will affect the amounts proposed for any of the budgetary lines included in Part II of the Draft Appropriation Resolution.*

II. *In the submission and examination of DRs, the following rules shall be strictly applied:*

1. *At least 90 days before the opening of the session of the General Conference,² and taking into account Rule 80.2 of the Rules of Procedure, the President of the General Conference or on his behalf the Director-General shall formally communicate to Member States the exact deadline for the submission of DRs. All DRs shall reach the Director-General, in writing, 45 days before the opening of the session of the General Conference.³*
2. *The Director-General shall formulate his conclusions on the admissibility of the DRs. To this end, a DR may only be considered inadmissible in one of the following cases:*
 - (a) *when an operative paragraph of Part II of the Draft Programme and Budget is not affected by the DR (such operative paragraphs will always appear in bold and within a box, making them thus clearly identifiable); or*
 - (b) *when the budgetary implication of the DR is equal to or lower than US \$40,000; or*
 - (c) *when the DR does not have international, regional or subregional scope, i.e. when it refers to an activity to be implemented for the benefit of a single Member State; or*
 - (d) *when the activity proposed in the DR conforms to all the conditions required in the appropriate resolutions for the presentation of requests to the Participation Programme (currently 30 C/Resolution 50)⁴.*
3. *Within a maximum period of 25 days⁵ from the deadline referred to in paragraph 1, Member States shall receive the comments of the Director-General regarding their respective DRs. Such comments shall clearly indicate: (a) whether the DR is admissible or inadmissible; and (b) if it is considered inadmissible, which of the cases specified in paragraph 2 justifies, in the opinion of the Director-General, his conclusion. If a decision is not taken by the Director-General within this 25-day period, the DR shall automatically be considered admissible.*

¹ Adopted by the Legal Committee in November 2000.

² By 8 July.

³ By 21 August.

⁴ Currently 34 C/Resolution 52.

⁵ By 16 September.

4. *Any Member State may appeal the conclusions of the Director-General regarding the inadmissibility of its DR. To this end, not later than five days before the opening of the session of the General Conference,⁶ its President or on his behalf the Director-General shall receive from such Member State a letter of appeal in which the reasons for this recourse shall be clearly stated. Any letter of appeal not satisfying this deadline or not reasoned shall be automatically rejected.*
5. *Unless otherwise decided by a simple majority of its members, the Legal Committee shall examine all the letters of appeal as the first item of its agenda. It shall confirm or reject the conclusions of the Director-General on each DR which motivated the appeal. To this end, it shall ascertain whether the reasons presented by the Director-General in his comments conform to any of the cases presented in paragraph 2 above. In addition to its letter of appeal a Member State may make a further written submission. It will be expected to provide orally any additional information required by the Legal Committee.*
6. *A Member State which is a member of the Legal Committee shall not vote on an appeal submitted by itself.*

III. In the exercise of their respective duties regarding the admissibility of DRs, the Secretariat and the Legal Committee shall apply Section XIV of the Rules of Procedure of the General Conference, as interpreted by this Note.

IV. At the request of the General Conference, this Note may be revised by the Legal Committee.”

⁶ By 1 October.

ANNEX II

FINALIZATION OF THE EXPLANATORY NOTE ON THE APPLICATION OF RULES 80 AND 81 OF SECTION XIV OF THE RULES OF PROCEDURE OF THE GENERAL CONFERENCE CONCERNING ADMISSIBILITY CRITERIA FOR DRAFT RESOLUTIONS RELATING TO THE DRAFT PROGRAMME AND BUDGET AND THE EXAMINATION OF SUCH DRAFT RESOLUTIONS¹

(LEG/2002/1)

3. Since the Legal Committee did not have a mandate to amend the wording of the "Explanatory Note on the application of Rules 80 and 81 of the Rules of Procedure of the General Conference", its members discussed a certain number of difficulties connected with the application of the note. One member of the Committee expressed himself in favour of endorsing the explanatory note, except for the wording of paragraph 2(b) in which the limitation established was not supported by any statutory or regulatory norm of UNESCO.
4. Some members questioned the role assigned to the Legal Committee in regard to the matter and also the legal value of the explanatory note.
5. It was stated that the Explanatory Note imposed no new obligations on Member States and that it merely provided an interpretation of the relevant provisions of the Rules of Procedure of the General Conference, an interpretation which was brought to the attention of the Executive Board and of the General Conference, which took note thereof in 31 C/Resolution 67.
6. Several members deemed it desirable to act with caution and to refrain from amending the wording of the Explanatory Note. One member who shared that view nevertheless stressed that the note did not resolve all of the difficulties involved in applying the relevant provisions of the Rules of Procedure.
7. Some members proposed asking Member States about the difficulties encountered in applying the Explanatory Note, with a view to introducing, as appropriate, the necessary modifications. It was envisaged that the Chairperson of the Legal Committee could contact the Member States and report back to the Committee in that regard.
8. Several members pointed out that the procedure established by Rules 80 and 81 of the Rules of Procedure of the General Conference had functioned satisfactorily on the whole and that it was not for the Legal Committee to introduce elements of flexibility which could not fail to create delicate problems in regard to application. It was clearly stated that the Explanatory Note was not intended to apply to all draft resolutions but only to those with budgetary implications. Some members stressed that that point should be brought to the attention of the Member States in the clearest possible terms and that the resolution on the Participation Programme should be attached to the note.
9. Several members emphasized the need for full consultation with the Member States and the Secretariat during the preparation of the Draft Programme and Budget (C/5).
10. The representative of the Director-General indicated that the reference to 30 C/Resolution 50 in the Explanatory Note should now be taken as referring to 31 C/Resolution 36 which followed on from the previous resolution. He assured the members that he was aware of the difficulties encountered by certain Member States and that the Secretariat was constantly trying to improve consultations with the Member States in regard to the preparation of the Draft Programme and Budget (C/5). He further confirmed that the Secretariat was prepared to undertake what the Legal Committee called "educational measures" to inform the delegations clearly and repeatedly about the terms of the Explanatory Note and the implications of non-observance.

¹ Excerpt from the report adopted by the Legal Committee at its November 2002 meeting.

ANNEX III

**FORM FOR THE SUBMISSION OF DRAFT RESOLUTIONS
PROPOSING THE ADOPTION OF AMENDMENTS
TO THE DRAFT PROGRAMME AND BUDGET FOR 2010-2011**

35th SESSION OF THE GENERAL CONFERENCE

Draft resolution proposing the adoption of amendments to the Draft Programme and Budget for 2010-2011 (35 C/5)

Submitted by:

State(s)

Referring to Volume 1 of document 35 C/5

Number of draft resolution:¹

.....

Proposed modification, deletion or addition (specify paragraph):

State the amount of budgetary implications of the proposed amendment:

.....

Indicate the proposed source of funding (budget proposed for other parts of document 35 C/5 or extrabudgetary resources):

.....

¹ Paragraph number of the box containing each draft resolution.

Explanatory note (no more than 20 lines):

Please provide fax number (or email address) for subsequent correspondence:

.....

Name:

Date:

.....

Signature(s) for each sponsoring State