



General Conference

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United Nations
Educational, Scientific and
Cultural Organization

Organisation
des Nations Unies
pour l'éducation,
la science et la culture

Organización
de las Naciones Unidas
para la Educación,
la Ciencia y la Cultura

Организация
Объединенных Наций по
вопросам образования,
науки и культуры

منظمة الأمم المتحدة
للتربية والعلم والثقافة

联合国教育、
科学及文化组织

37 C/76

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LEGAL COMMITTEE

First report

The Legal Committee elected by acclamation Mr Mohammad Kacem Fazelly (Afghanistan) as Chairperson, Mr Jude Mathooko (Kenya) and Mr Sirajuddin Hamid Yousif (Sudan) as Vice-Chairpersons, and Mr Pierre Michel Eisemann (France) as Rapporteur.

Item 4.2 of the agenda (37 C/8 LEG)

EXAMINATION OF COMMUNICATIONS ON THE ADMISSIBILITY OF DRAFT RESOLUTIONS PROPOSING THE ADOPTION OF AMENDMENTS TO THE DRAFT PROGRAMME AND BUDGET FOR 2014-2017 (37 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 Procedure (see Rules 80 and 81).
2. The procedure established provides that the sponsors of those draft resolutions (DR) that at first sight appear inadmissible in the opinion of the Director-General may appeal to the General Conference, after submission to the Legal Committee for opinion, 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 was completed by two "finalizations" adopted by the Legal Committee at its November 2002 meeting and by the General Conference at its 33rd session, respectively.
4. Furthermore, through 36 C/Resolution 104 on the independent external evaluation of UNESCO, the General Conference emphasized in 2011 that the recommendation that draft resolutions with financial implications clearly identify the main line of action from which the

resources should come, should henceforth constitute an admissibility criterion. This additional admissibility criterion is applicable to draft resolutions relating to document 37 C/5.

5. Those criteria were followed by the Legal Committee when it examined the only appeal on a draft resolution deemed inadmissible by the Director-General. After listening to the representative of the country that had sponsored the draft resolution, the Legal Committee rejected the appeal and confirmed the inadmissibility of this draft resolution (MS/DR.24) on the grounds that it did not concern one of the operative paragraphs of the Draft Programme and Budget for 2014-2017.

6. While it regretted having to reach such a decision in the light of the current rules, the Legal Committee recalled that it was only able to come to a decision on the basis of the original wording of the draft resolutions submitted to it for examination, without ruling on the substantive merits of the DR.

7. Members hoped that, in the future, a more constructive dialogue could be established between the Secretariat and Member States, in order to avoid material errors arising during the preparation of draft resolutions constituting grounds for rejection. Furthermore, members also requested that, whenever it informed the sponsor of a draft resolution of its inadmissibility, the Secretariat should, in future, not only mention the criterion that had not been met, but should also clarify the reasons why that was the case.