

Hundred and sixty-sixth Session

166 EX/9
PARIS, 26 February 2003
Original: English

Item 6.3 of the provisional agenda

**PROPOSAL TO CHANGE THE LEGAL STATUS
OF THE UNESCO INSTITUTE FOR EDUCATION
IN ORDER TO BRING IT INTO LINE WITH
THE OTHER UNESCO INSTITUTES**

SUMMARY

In 2001, at its 31st session, the General Conference invited “the Director-General to make the necessary changes to the legal status of the Institute [UIE] to bring it into line with other UNESCO institutes, and to submit them to the Executive Board for approval” (31 C/Resolution 6). This resolution was prompted by 162 EX/Decision 4.2 on an overall strategy for UNESCO institutes, centres, and their governing bodies, in paragraph 10 of which the Executive Board “requests the Director-General to take all necessary measures to ensure that all host governments which have not yet done so sign corresponding host country agreements specifying, *inter alia*, the support which they provide to the respective institutes and centres”.

The present proposals are to align the status and the Statutes of the UNESCO Institute for Education (UIE), Hamburg (Germany), to those of other education institutes of the Organization.

The document contains a brief account of UIE, presents a new arrangement made to meet the institutional, financial and staff issues created by the cut of the German institutional grant to the Institute and proposes a draft decision to the Executive Board.

Decision proposed: paragraph 14.

Background

1. The UNESCO Institute for Education (UIE) was established in 1952 in the context of the post-war reform of the German education system. It was set up as a Foundation under provisions of the Civil Code of the Federal Republic of Germany, having its seat in the Free and Hanseatic City of Hamburg. The first constitution of UIE was signed on 19 May 1952. In 1965, the Constitution was revised and approved by all the parties involved in the creation of UIE, namely, UNESCO, the Federal Republic of Germany and the Free and Hanseatic City of Hamburg.
2. The Institute has developed since then into a leading resource centre in the areas of literacy, non-formal education, and adult and lifelong learning. UIE has built up a fine collection of literacy materials, as well as gathered a unique store of experience, developed a mainstream research capacity and issued a wide range of publications in its areas of competence. The Institute is providing tailor-made services and reinforcing the capacity of Member States, NGOs, and civil society organizations in the field of policy formulation, programme development, training and evaluation. The Institute is currently responsible for the follow-up of the fifth International Conference on Adult Education (CONFINTEA V) and contributes to the implementation of the Dakar Framework for Action and the United Nations Literacy Decade (UNLD).

Financial Arrangements

3. The financial resources available for staff costs (excluding UNESCO regular staff members) in the 2002-2003 biennium come from UNESCO's financial allocation, the German Government's institutional grant (\$1,156,000 out of the total of \$1,700,000) and the direct budget support and overhead costs on project grants from the German Government and other countries and partner agencies (\$560,000). The five UNESCO staff members are directly paid by Headquarters from UNESCO's financial allocation.
4. The Government of the Federal Republic of Germany announced in a Verbal Note dated 26 January 2000 and a subsequent letter by the Minister of Foreign Affairs to the Director-General dated 15 May 2001 its decision to phase out the institutional grant it had been providing to UIE since its inception, although it expressed its willingness to host UIE as a truly international institute and to continue to provide programme grants to the Institute. The institutional grant is being gradually phased out and will no longer be available as of 2006.
5. In view of the serious budgetary and staff issues created by the cut of the institutional grant provided by Germany, the Director-General invited the UIE Governing Board to search for financial solutions that do not involve compensation from UNESCO's regular budget.
6. The following arrangements are now in place or proposed:
 - (a) UNESCO will maintain its financial allocation and established posts at the levels and within the proportion of document 31 C/5.
 - (b) Core budget support and/or voluntary contributions are provided by several countries. The Norwegian Royal Ministry of Foreign Affairs and the Swedish International Development Cooperation Agency (SIDA) in particular have been granting UIE together approximately \$700,000 yearly. A generous grant of \$500,000 covering programme costs, staff costs and overheads is being finalized with the UNESCO-Government of Japan Funds-in-Trust for 2003-2005. There are solid grounds to expect that all these partners will continue their support and that others will join this initiative which is strongly backed by Germany. The current institutional grant including committed staff costs that was provided by Germany is estimated at \$850,000. UIE's

finances are sound and there is no deficit foreseen. Moreover, the Institute is building a special reserve as a cushion against financial difficulties. The table (Annex I) attached gives an overview of the integrated mid-term budget of the Institute (2002-2006). It should also be noted that, in line with the policy of UNESCO, 60% to 70% of the overall UIE budget is and will be spent on programme activities.

- (c) Regular programme grants will continue to be provided by Canada, Germany, Japan, Nigeria, the European Union and other agencies.
- (d) The Secretariat will decentralize activities or subcontract UIE to implement priority programme activities in the Institute's areas of competence (literacy, non-formal education, adult and lifelong learning).
- (e) A special appeal will be made to Germany and other Member States to provide voluntary contributions to UIE.

Legal Status

7. The current legal status of UIE is that of a foundation under the Civil Code of the Federal Republic of Germany. Over the years there have been a number of resolutions and appropriations adopted by the General Conference and the Executive Board pertaining to UIE. While giving more responsibilities and resources to the Institute, they expressed concern that its legal status is different from that of other UNESCO institutes and no host country agreement has ever been signed. The Executive Board at its 162nd session requested the Director-General "to take all necessary measures to ensure that all host governments which have not yet done so sign corresponding host country agreements specifying, *inter alia*, the support which they provide to the respective institutes and centres" (162 EX/Decision 4.2, para. 10). It is in that context that the General Conference invited the Director-General in November 2001, to "make the necessary changes to the legal status of the Institute to bring it into line with the other UNESCO institutes" (31 C/Resolution 6).

8. In pursuance of the decisions of the governing bodies of the Organization, the Director-General is proposing the measures set out in this document, including the draft Statutes contained in Annex II. The status of a fully-fledged international UNESCO institute will create the basis for a long-term sustainable solution for UIE and maximize its contribution to the UNESCO programme and mission.

9. Several alternatives to change the status of UIE with a view to aligning it with the other UNESCO education institutes were investigated. The most suitable and straightforward option from a legal standpoint is provided in the annex. This option establishes a clear break with the past and makes the Institute unequivocally an integral part of UNESCO. This would make UNESCO statutorily and financially responsible for the Institute. It has the following advantages:

- (a) UIE would cease to be a legal entity in its own right as a foundation under national law and would become an integral part of the Organization.
- (b) The new entity is not automatically liable to the former foundation and an agreement could be reached under the aegis of UNESCO, the UIE Governing Board and the German authorities to deal with all pending or emerging liabilities, particularly with regard to staff compensation. The German Government has indicated its readiness to examine the possibility of sharing with UNESCO such compensation, if any. The Works Council and the staff of the Institute have indicated their willingness to become staff members of UNESCO.

- (c) UIE's current Constitution includes a provision in Articles IX and X to dissolve legally the foundation in accordance with relevant provisions of the applicable German Law and in consultation with the competent German authorities.

Implementation

10. A Host Country Agreement should be negotiated and signed in which the contribution of Germany is clearly indicated. Intensive and constructive negotiations are currently under way.
11. A special account should be opened in accordance with the financial regulations of UNESCO and the decision of the Executive Board pertaining to all institutes.
12. The seat of UIE will remain in Hamburg as the city has formally renewed its strong commitment to host the Institute by continuing to provide free premises and maintenance (\$200,000 a year) and a grant for the documentation (\$20,000 a year). In addition, the University of Hamburg is making a generous offer to second to UIE the services of one or two senior researchers.
13. Draft Statutes are attached for the consideration of the Board (See Annex II). They are partially based on the current UIE-Foundation Statutes and draw on the Statutes of the UNESCO Institute for Statistics (UIS). In general, the different articles are inspired by and built on decisions and formulations already adopted by the governing bodies of the Organization addressing the same or similar situations and issues.
14. The Executive Board may wish to adopt a decision along the following lines:

The Executive Board,

1. Recalling 31 C/Resolution 6, paragraph 3,
2. Confirming the relevance and innovative nature of the activities of the UNESCO Institute for Education (UIE), in literacy, non-formal education, and adult and lifelong learning,
3. Taking into account the new arrangements for financial support following Germany's decision to phase out its institutional grant,
4. Having examined document 166 EX/9,
5. Approves the draft Statutes proposed by the Director-General establishing UIE as an international institute in the framework of UNESCO;
6. Invites the Director-General to negotiate and sign a corresponding Host Country Agreement with the Federal Republic of Germany, in which the contribution of the host country to UIE is specified;
7. Takes note of the Director-General's proposal to open a Special Account for the Institute in line with the new status of the Institute;
8. Further invites the Director-General to implement the new Statutes and to inform the General Conference at its 32nd session.

ANNEX I

UNESCO Institute for Education (UIE)

Integrated mid-term budget (2002-2006)

	2002 \$	2003 \$	2004 \$	2005 \$	2006 \$	Total* \$
Institutional grant:						
<u>Germany:</u>						
Foreign Office	564,850	431,893	298,936	165,110	0	1,460,789
City State of Hamburg	168,838	168,838	168,838	168,838	168,838	844,190
University of Hamburg**	0	43,450	130,350	130,350	130,350	434,500
<u>UNESCO</u>						
Direct programme costs	383,924	383,924	383,924	383,924	521,400**	2,057,097
Staff costs	434,500	434,500	434,500	434,500	521,400**	2,259,400
Miscellaneous (royalties, etc.)	32,153	17,380	17,380	17,380	17,380	101,673
Project grant:						
<u>Germany:</u>						
Foreign Office	178,145	178,145	178,145	178,145	178,145	890,725
City State of Hamburg	17,815	17,815	17,815	17,815	17,815	89,073
BMZ**	0	0	217,250	217,250	217,250	651,750
BMBF**	0	86,900	217,250	217,250	217,250	738,650
<u>UNESCO</u>						
Extrabudgetary funds	106,453	130,350	130,350	130,350	130,350	627,853
Japan (Funds-in-Trust)		43,450	173,800	217,250	217,250**	651,750
Norway	369,325	332,393	332,393	332,393	332,393	1,698,895
Sweden	265,914	265,914	265,914	265,914	265,914	1,329,570
Others	100,804	152,944	152,075	195,525	477,950	1,079,298
Total	2,622,720	2,687,895	3,118,919	3,071,993	3,413,684	14,915,212
<u>In-kind contributions</u>	112,970	112,970	112,970	112,970	112,970	564,850

* Amounts expressed in euros have been converted into United States dollars using the constant rate of US \$1 = €0.869.

** Volume of cooperation is subject to negotiation with the indicated partner organization.

ANNEX II

DRAFT STATUTES FOR THE UNESCO INSTITUTE FOR EDUCATION (UIE)

The following proposals for draft Statutes for the UNESCO Institute for Education refer to the decision of the General Conference to “invite the Director-General to make the necessary changes to the legal status of the Institute [the UIE] to bring it in line with other UNESCO institutes and to submit them to the Executive Board for approval”.¹

¹ See 31 C/Resolution 6, paragraph 3.

Draft Statutes

Article I – Definitions

Unless otherwise stated in the text:

UNESCO means the United Nations Educational, Scientific and Cultural Organization

General Conference means the General Conference of UNESCO

Executive Board means the Executive Board of UNESCO

Director-General means the Director-General of UNESCO

Board means the Governing Board of the Institute

Committee means the Standing Committee of the Board as provided for in Article VII of the Statutes

Director means the Director of the Institute

Institute means the newly established international UNESCO Institute for Education

Statutes means the Statutes of the Institute

Personnel means the personnel of the Institute as provided for in Article IX

UIE Foundation means the UNESCO Institute for Education (UIE), established by UNESCO in 1952 as a foundation under German law in Hamburg, Germany

Constitution means the Constitution of the UIE Foundation

Article II – Legal status of the Institute

1. An international UNESCO Institute for Education is hereby established within the framework of UNESCO, of which it shall be an integral part.
2. The Institute shall replace the UIE Foundation which shall be dissolved in accordance with Article X of its Constitution and the relevant provisions of the applicable German law and in consultation with the competent German authorities.
3. Within the above-mentioned framework, the Institute shall enjoy the functional autonomy necessary to achieve its objectives.
4. All activities carried out by the Institute shall be in conformity with the present Statutes as well as the relevant decisions of the General Conference and the Executive Board.
5. The name of the Institute shall be the same as that of the former UIE Foundation, UNESCO Institute for Education (UIE).
6. The Institute has its seat in the Free and Hanseatic City of Hamburg.

Article III – Objectives and functions

1. Within UNESCO's broad educational mandate, the mission of UIE shall be to promote the recognition of and create the conditions for the exercise of the right to education and learning. As a non-profit international institute of UNESCO, UIE shall undertake research, capacity-building, networking and publication on lifelong learning with a focus on adult and continuing education, literacy and non-formal basic education.
2. To that end, the Institute shall focus on the following objectives:
 - strengthen adult and lifelong learning through working with and providing services in its areas of competence to UNESCO Member States, to international and intergovernmental agencies, to non-governmental organizations, grassroots and community associations and to partners in civil society and the private sector;
 - foster a holistic and integrated approach based on awareness of different needs with a special concern for the disadvantaged and marginalized;
 - help to build bridges and networks for cross-fertilization and sharing of knowledge experience and tools in the area of literacy, non-formal education, adult and lifelong learning within and between nations, with special emphasis on least developed countries.
3. The Institute shall perform the following functions:
 - foster policy dialogue to further the universalization of the right to education and to learn for marginalized and disadvantaged groups by promoting lifelong learning, disseminating good practice, advocating conducive legal, policy and financial environments;
 - research and research-based capacity-building to develop a solid, culturally diversified and relevant knowledge base;
 - networking, partnership building among stakeholders and partners, exchange of experience and innovations, documentation and dissemination of outcomes.

Article IV – Governing Board

1. The Board shall be composed of twelve members appointed by the Director-General with regard to gender balance and to a geographical distribution that is as equitable and wide as possible. The Director-General shall also appoint an alternate to each full member. One of the members shall be a national of the host country. The members shall be chosen *intuiti personae* according to their eminence in the fields relevant to education and the aims of the Institute.
2. The term of office of all members and their alternates shall be four years. All members and alternates shall be eligible for reappointment, but not for more than two consecutive terms.
3. If any member resigns, or is prevented from carrying out his/her duties, his/her alternate will automatically hold office for the rest of the term. If the member and his/her alternate resign or are prevented from carrying out their duty, the Director-General shall appoint a new member and his/her alternate for a new term.
4. The Board members shall not receive salaries in respect of their duties, but their travel costs shall be covered according to the UNESCO rules and regulations.

5. The Board shall elect its Chairperson and its Vice-Chairperson from among its members for a term of four years.

Article V – Functions of the Governing Board

The functions of the Board shall be:

1. To determine and approve the general policy and the nature of the Institute's activities planned over a two-year period, within the framework decided by the General Conference, including the Approved Programme and Budget and with due regard to the obligations resulting from the fact that the Institute is an integral part of UNESCO.
2. To examine the annual draft programme and budget of the Institute and adopt the revised programme and budget.
3. To adopt and address to the Director-General an annual report on activities.
4. To review progress in the work of the Institute with a view to desirable future developments.
5. To assist the Director-General in the nomination of a Director of the Institute by making recommendations to that end.
6. To report, through its Chairperson, to the General Conference on the activities of UIE.

Article VI – Operation of the Board

1. The Board shall meet at least once a year and whenever necessary in the interest of the Institute or for the requirement of its business. It shall be summoned by the Chairperson, who shall draw up the agenda, at least four weeks before the date of the meeting. The Chairperson must call a meeting if the Director or at least five members of the Board request it.
2. Decisions shall be taken by simple majority. Each member of the Board shall have one vote. A quorum shall consist of seven members of the Board.
3. The Board shall adopt its own Rules of Procedure.
4. The Director-General or his/her representative shall attend all sessions of the Board without the right to vote. He/she may at any time make oral or written statements to the Board concerning any question under consideration by them.
5. The Board may invite observers, as it considers appropriate.

Article VII – The Committee

1. Between its meetings, the Board shall be represented by a Standing Committee.
2. The Committee shall consist of the Chairperson of the Board and two other members to be elected by the Governing Board from among its members for a two-year period with the possibility of re-election. The Board shall also elect replacement members to sit in the Committee in case one of its full members resigns or is prevented from carrying out his/her duties.

3. The Director-General or his/her representative may attend the meetings of the Committee.
4. The Committee shall supervise the work of the Director to the extent to which authority is delegated to it by the Board, to which it shall report its activities.
5. The Board may authorize the Committee to exercise certain of its functions in its name, except those functions reserved by these Statutes for the Board, and to report on its actions to the Board in the matter.
6. The Committee shall meet at least twice a year.

Article VIII – The Director

1. The Director of the Institute shall be appointed by the Director-General on the recommendation of the Board (Article V, para. 6). He or she shall be a UNESCO staff member and therefore subject to UNESCO's Staff Regulations and Staff Rules.
2. The Director shall be the chief executive officer of the Institute. In this capacity, he/she, by due delegation of the Director-General, shall perform the following functions:
 - (a) to administer the Institute;
 - (b) to prepare, after consultation with the Committee, the annual programme and budget of the Institute and the annual reports of activities;
 - (c) to draw up, subject to the Board's approval, detailed plans for the implementation of the approved programme, and to direct their execution;
 - (d) to appoint and manage, on behalf of the Director-General, in accordance with UNESCO's Staff Regulations and Staff Rules, the UNESCO staff members of the Institute and the special staff, such as consultants, and persons under secondment or under other arrangements;
 - (e) to receive funds and make payments in accordance with the financial regulations of the special account for the Institute as provided in Article X;
 - (f) to establish, without prejudice to the financial regulations of the special account for the Institute, financial rules and procedures in order to ensure effective financial administration and economy.

Article IX – The Personnel

1. The personnel employed by the UIE Foundation prior to the adoption of the present Statutes shall be transferred, if they so desire, to the Institute, subject to an appropriate agreement being concluded between the host country and UNESCO.
2. With its transfer to the Institute, the personnel will be subject to UNESCO's Staff Regulations and Staff Rules.

Article X – Finance

1. The income of the Institute shall consist of:
 - (a) A financial allocation determined by the General Conference;
 - (b) Contributions made by the Federal Republic of Germany;
 - (c) Voluntary contributions from other Member States of UNESCO, international agencies and organizations as well as other entities, allocated to it for purposes consistent with the policies, programmes and activities of UNESCO and the Institute;
 - (d) Subventions, endowments, gifts and bequests as are allocated to it by other public or private organizations, associations or individuals for purposes consistent with the policies, programmes and activities of UNESCO and the Institute;
 - (e) Fees collected in respect of the execution of projects entrusted to the Institute, from the sale of publications, or from other particular activities; and
 - (f) miscellaneous income.
2. The income of the Institute shall be paid into a special account to be set up by the Director-General, in accordance with the relevant provisions of UNESCO's Financial Regulations. This special account shall be operated and the Institute's budget administered in accordance with these Statutes and the financial regulations of the special account.
3. In the event of a decision by the General Conference to close down the Institute its assets shall be vested in and its liabilities taken over by UNESCO.

Article XI – Amendments

The present Statutes may be amended only by a decision of the General Conference or the Executive Board.

Article XII – Transitional Provisions

1. Upon the entry into force of these Statutes:
 - (a) The members of the Governing Board of the UIE Foundation shall become members of the Board of the Institute and shall hold their office until the end of their original terms.
 - (b) The Director of the UIE Foundation shall become Director of the Institute.

Article XIII – Entry into Force

The present Statutes will enter into force once the Host Country Agreement and the Agreement mentioned in Article IX have been concluded by UNESCO and the Federal Republic of Germany, and after the Foundation has been dissolved legally.