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OPERATIONAL ACTIVITIES OF THE ORGANIZATION  
INCLUDING UNESCO-UNDP CO-OPERATION

SUMMARY

Pending submission to the 135th session of the Executive Board of the report on Operational Activities for Development, the present document reports on two issues of immediate concern: under Part I, the conclusions and recommendations of the UNDP Group of Experts on Support Cost Arrangements and Related Issues, and under Part II, the UNDP Standard Basic Executing Agency Agreement. In decision 7.1, adopted at its 132nd session, the Board had requested that these issues be brought to its attention as soon as feasible.

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## PART I

Report of the Expert Group on the Study of Successor  
Arrangements for Support Costs and Related IssuesA. Background

1. Technical co-operation in the United Nations system began with the creation of the Expanded Programme of Technical Assistance (EPTA) in 1949. It assumed a significant magnitude of pooled resources in 1959, when the Special Fund was established. These two grant aid funds were amalgamated in 1965 into the United Nations Development Programme (UNDP). During the first two decades of multilateral technical co-operation, the programming/allocation of funds was largely entrusted to the Specialized Agencies of the United Nations system, each of which was responsible for a fixed share (15 per cent in the case of Unesco). The central funding bodies were to ensure that United Nations grant aid would be collected on a voluntary basis rather than taxing the assessed budgets of the agencies.

2. In the 1950s, EPTA set aside a 12 per cent supplement to its project funding in order to reimburse executing agencies for the 'additional expenditure' they incurred in implementing projects. In the 1960s, this reimbursement rate was increased to 14 per cent, while the rate for Special Fund projects was 11 per cent. After the Consensus Resolution of 1970, a single UNDP rate of 13 per cent was adopted. Over the past 20 years, the rate has stayed in the range of 13 to 14 per cent.

3. The 1970 Consensus also transferred the authority of decision over the use of funds to recipient governments through the system of country earmarkings (Indicative Planning Figures: IPFs). The Consensus, however, reaffirmed the notion that the organizations of the United Nations system should be UNDP's main partners in designing and implementing technical co-operation programmes and projects:

'The Administrator will consult with the participating and executing agencies ... with a view to calculating appropriate reimbursement for project implementation and for advisory services involving programming, project formulation and policy development ... The role of the organizations of the United Nations system in the implementation of country programmes should be that of partners ... The appropriate organizations of the United Nations system will, subject to (consultation with the government), have first consideration as executing agents'.  
(General Assembly resolution 2688, twenty-fifth session)

4. The principle that United Nations organizations should be given 'first consideration' as executing agencies was weakened during the 1980s as UNDP moved towards a greater utilization of 'alternative modalities': project execution by UNDP/OPS, lending institutions and governments. These execution modalities, which accounted for 10 per cent of all UNDP deliveries in the 1970s, now stand at 30 per cent. During the same period, as was noted in the Jansson Report of 1987, many United Nations agencies also found themselves on the periphery of UNDP country programming exercises, which were increasingly aligned with World Bank/IMF structural adjustments policies and programmes.

5. At the 35th session of the UNDP Governing Council (June 1988), two interrelated policy issues were examined:

- (a) recommendations made in the Jansson Report concerning, in particular, the timely provision of sector analysis and policy advice at the field level; and
- (b) the proposed tripling of funds earmarked for 'Special Programme Resources': SPR, nearly half of which is earmarked for sector analysis and policy elaboration in connection with country programming, donor meetings, and 'development management', was increased from about \$17 million to about \$46 million per year.

6. During this debate, concern was expressed about the possibility that SPR funds earmarked for such analytical work might lead to a duplication, within UNDP, of programme support capacities existing already among United Nations agencies. It was felt, none the less, that the respective roles of the agencies, UNDP, and recipient governments should be redefined.

7. Consequently, when the same session of the Governing Council examined the question of 'successor arrangements' for financing support costs, the issue of tripartite roles was linked with that of support costs. The reimbursement rate of 13 per cent had been set in 1981 for a ten-year period (1982-1991) as the standard for all multilateral funding sources. In launching its examination of the arrangements that should come into force as from 1992, the Council expressly broadened the scope of the study which it planned to entrust to a 'Group of Experts'. In effect, the Council considered that 'successor arrangements for agency support costs ... should be examined in the wider context of the evolving relationship of the UNDP, governments, and the executing agencies of the United Nations system'. The first of the Terms of Reference given in decision 88/50 for the Expert Group that would be entrusted with this study, reads:

'(Examine) the best way for the UNDP to provide technical assistance, taking into account the evolution of new modalities as well as the capacity of the United Nations system to provide the required services'.

The Expert Group (four members) established by the Governing Council began its study in April 1989 and finished it in December 1989. The Report (DP/1990/9) was sent to Board members in March 1990.

#### B. The decision-making process relative to successor arrangements

8. Prior to the issuance of the Expert Group Report, the Administrative Committee for Co-ordination (ACC, which is composed of the Executive Heads of all United Nations system organizations) made a statement underlining the need for formal consultation with each of the governing bodies of the United Nations system prior to any final decision with respect to the recommendations of the Expert Group. This statement was reproduced in Governing Council document DP/1990/10 submitted to a special session of the Council in February 1990.

9. A preliminary examination of the Expert Group study was undertaken at this session of the Governing Council, which decided that a ten-member group of advisers, selected from Member States of the Governing Council, would be charged to obtain a clear view of the implications of the proposed successor arrangements by consulting, between March and May 1990, the UNDP and agency secretariats. The results of this inquiry would be reported to the Governing Council at its 37th session in June 1990. In this connection, the executing agencies were asked to submit comments to the group of advisers before mid-April 1990. Meanwhile, CCSQ/OPS and CCAQ/FB have prepared an executing agency 'position paper' that will probably be endorsed by ACC at its meeting on 2-5 May 1990.

10. When a new support cost funding arrangement has been defined and recommended by the UNDP Governing Council, probably between June 1990 and June 1991, it will be examined in successive sessions of ECOSOC and the General Assembly. Since agreement in these three fora might possibly be reached as from December 1990, it is essential that early clarification be sought as to how the points of view of executing agency governing bodies will be taken into account and duly reflected in both the new definition of respective roles and the new formula for support cost reimbursement.

### C. Major implications of the Expert Group recommendations

#### (i) Redefinition of tripartite roles

11. The Expert Group Report is more precise and detailed with respect to the proposed redistribution of respective roles within the United Nations development system than it is with respect to the support cost financing required for those roles. The proposed role distribution is summarized as follows.

#### The role of recipient countries

12. A key feature of the Expert Group recommendations is that future arrangements should strengthen further the government execution modality. Thus, for example, the Report states that 'national execution should increase significantly (para. 467) and that 'the promotion of government execution will reduce the scope for agency execution' (para. 246). United Nations agencies, in turn, are expected to provide a broad range of technical advice and analysis in support of government execution (paras. 401-403, 473, 479, 491, etc.).

13. In decision 7.1, the Executive Board of Unesco stressed at its 132nd session that 'when the government execution modality requires substantive support from the United Nations system, ... such support should be provided by United Nations agencies rather than directly by UNDP'. In this respect, the Expert Group Report is ambiguous. First, the proposed options for financing support costs do not seem to encourage such support from agencies; instead, they seem to suggest that agency budgets should cover such services. Second, it is now standard practice for UNDP itself to backstop government executed projects - a practice which is supported by the Expert Group: 'With the expansion of national execution, the work of the field office will increase, particularly in assisting governments in project management, accounting and reporting' (para. 333 of the Report).

14. Moreover, the Report seems to establish a dichotomy between agency execution and government execution, implying the existence of mutually exclusive modalities, when it suggests that agencies should abandon their implementation role in order to 'help government institutions build the capacity to execute projects themselves' (para. 102). Such capacity building has been and still is the main objective of projects executed by the United Nations agencies.

#### The role of the United Nations agencies

15. The Expert Group Report often refers to agency 'preoccupation' with project execution as a reason for the lack of significant agency role in country programming, needs assessment and the provision of policy advice (paras. 43-45, 102, 203). Most executing agencies, including Unesco, believe, however, that their reduced involvement in such analytical work results from the macro-economic structural adjustment approach to programming since 1983. The Report also mentions (paras. 118-121 and 473) that agencies' staff may not be sufficient to handle the projects entrusted to them for execution.

16. In fact, most United Nations agencies were executing a greater volume of UNDP projects in 1980-1982 than in subsequent years. Questions about the adequacy of agency backstopping arose while the volume was decreasing, not rising. The problem concerned support cost funding: during a period of zero growth for assessed budgets, the real cost of support for technical co-operation was rising significantly. Among the reasons for the increases were:

resident experts were increasingly replaced by short-term consultants, national project managers and national experts (while sharply reducing the level of support cost reimbursement, this trend made the supply of technical advice more onerous);

project design and appraisal/approval processes - as well as progress reporting and expenditure reporting - became more complex and time-consuming;

an increasing proportion of project identification and formulation tasks were being accomplished without any reimbursement, as implementation was increasingly awarded to government or direct execution;

the number of small-scale, as opposed to large-scale, projects grew.

17. While overlooking this problem of appropriate support cost funding, the Report draws the conclusion that 'in all the recommended arrangements, a greater role for parties outside the United Nations system has been envisaged' (para. 405). With respect to future roles of the partners (para. 479a), it is proposed that 'The Consensus should be interpreted more flexibly to ensure that governments can choose the required services from the broadest possible range of sources available worldwide, both within and outside the United Nations system'.

18. In compensation for a declining role in project implementation, the Report recommends a greater role for the agencies in the provision of technical advice in support of country programming, donor meetings, programme and project formulation, monitoring and evaluation of government execution, etc. (paras. 129-134, 473, 479, 481, 483). Some aspects of this proposal are disquieting. First, the proposed options do not indicate that preference would be given to agencies for analytical work. Most of the options imply that competitive bidding or negotiations would settle the attribution of tasks. Second, it seems that much of the agency provision of technical advice should be considered as a natural part of agency mandates and, therefore, be covered from their assessed budgets (paras. 402-405, 473c-d-e-f). This assertion is supported by General Assembly resolution 44/211 concerning the Triennial Policy Review of the Operational Activities of the United Nations System. The convergence between resolution 44/211 and the Expert Group recommendations will be analysed by the Executive Board at its next session in the Annual Report of the Director-General on Operational Activities.

#### The role of UNDP

19. UNDP is both the major source of funding for the operational activities of United Nations agencies and the central co-ordinator of United Nations system technical co-operation at the field level. There is unanimous recognition, through the ACC mechanism, of the unique role of UNDP as the 'team leader' of the United Nations system at country level. Here, the Expert Group missed the opportunity to call attention to the basic incompatibility between this central co-ordinating role and the parallel role of UNDP as a major executing agency. The growing tendency for UNDP to provide substantive support to government execution is a similar incongruity. Again, an expanding UNDP role in substantive matters could constitute a costly duplication of capacities which exist among United Nations agencies.

20. As team leader and central co-ordinator, it would have been logical for UNDP to utilize a significant portion of its expanded 'Special Programme Resources' (SPR - see para. 5 above) as an incentive to encourage the greater involvement of United Nations agencies in NATCAPs, donor meetings, project formulation, etc. Instead, of the estimated \$10-15 million of such SPR-funded analytical work accomplished in 1989, about 75 per cent was implemented directly by UNDP.

21. Perhaps the most radical shift in roles that is proposed by the Expert Group is that contained in the recommendation on 'future roles' (para. 479a, which is cited in para. 17 above: '... ensure that governments can choose services from the broadest possible range of sources available both within and outside the United Nations system'). Such a change might entail much more than a 'flexible interpretation' of the 1970 Consensus which was based upon the understanding that UNDP was the central fund for the operational activities of the United Nations system. As was noted in the 'Preliminary views of the CCSQ/OPS Task Force on Support Costs':

'Under the Consensus, the United Nations system provides support to governments to develop their institutional capacities and to enable them to participate in the solution of global and regional problems through a wide array of international co-operative programmes (in agriculture, health, education, industry, civil aviation, telecommunications, etc.). This vocation is today more than ever of essence due to the speed of technological change, information flows, the enhanced mobility of persons and goods, the precarious nature of the environmental balance - the advent of global interdependence'.

22. On its part, in decision 7.1 taken at its 132nd session, the Executive Board stressed that:

'While a degree of competition among United Nations agencies, NGOs and private firms may enhance overall effectiveness in the design and implementation of UNDP projects, the principle that United Nations agencies should be utilized to the fullest extent remains valid, particularly in the light of ... the 1970 Consensus and its basic assumption that interaction between United Nations system regular programme activities and operational activities is of mutual benefit'.

(ii) Successor arrangement for the financing of support costs

23. Seven different options for the future financing of support costs are elaborated in the Report of the Expert Group (paras. 394-466). These options are rather imprecise and ambiguous, which renders attempts to assess their implications extremely difficult. The three 'preferred' options, when examined by the Governing Council last February, were considered as 'the appropriate point of departure for further analysis and discussion'. The Council asked, therefore, that the new group of advisers 'ensure that consultations (prior to the June 1990 session of the Council) result in a clearer view of the implications of the various options recommended by the Expert Group'. The same decision requests, however, that the executive heads of executing agencies submit to the group of advisers, before 14 April 1990, 'written comments ... particularly with respect to the options set out in Chapter VII (of the Expert Group Report)'. It is of paramount importance that no Governing Council decision be taken until the likely consequences of a chosen option would have been fully assessed by all concerned parties. At this stage, however, the options do not allow for a conclusive analysis.

24. As presented, the options do not permit an objective estimate of the volume of work to be provided by the agencies in the three categories of intervention: project implementation, backstopping of government execution and analytical work. Moreover, within those tasks, there is little certitude about the portion of the cost to be borne by the concerned agency. Each of the preferred options represent mixed financing: part from assessed agency budgets, part from the funding source, part to be included in the project budget and, in some cases, in the form of projects formulated specifically for the provision of support. A further complication lies in the fact that reimbursements from the funding source should be renegotiated each year, that cost measurement be introduced, that costs to be included in project budgets be negotiated case-by-case, and that bids be prepared whenever open bidding is required. In addition, the Report also proposes that all inter-country projects be treated differently from country projects: 'There would be no support cost payment for such projects; all overhead costs would have to be ... charged to the project budget' (para. 410).

25. The report lists 11 'basic considerations' to be utilized in assessing the appropriateness of future arrangements. These include:

- that the arrangement should be easy to understand and administer;
- compensation for services should be on a stable and predictable basis;
- there should be an equitable sharing of costs;
- the method should be applicable to all funding sources.

The three preferred options do not satisfy these criteria. In particular, agencies would be unable to estimate either the type or the quantity of support required during any given biennium. While they are faced with calls for more proficient and high-calibre support capacity, there is ambiguity as to the extent to which such capacity would in fact be utilized.

26. As noted in the 'Preliminary views of the CCSQ/OPS Task Force on Support Costs' (para. 21 above), '... the options recommended would involve time-consuming negotiations between agencies, governments, and UNDP; this would result in additional bureaucracy and a significant inflation of the cost of managing technical co-operation activities'.

(iii) Conclusion

27. The Executive Board may wish to concentrate its examination, at this stage, on the issues related to the redefinition of respective roles. An examination of 'successor arrangements' may have to await the more precise formulation of specific options, which is being sought by the group of ten advisers. Unesco's Annual Report on Operational Activities would include such information for discussion at the 135th session of the Executive Board.

28. It is recalled, in closing, that many of the policy initiatives proposed in the Expert Group Report (DP/1990/9) reiterate those made in the preliminary version of the Governing Council document entitled 'The Role of UNDP in the 1990s'. At that time, Unesco made the following observations on the support costs issue, which remain valid in the present context:

'It is of vital importance, at this juncture, that contributors to the United Nations system development financing - both voluntary and assessed - recognize that there is clearly a price to pay for enhanced support to development. The search for low-cost alternatives and for

optimal efficiency must, of course, continue. But resources can be stretched only so far. Frank acceptance of the fact that enhanced support capacity, in some cases, will require supplementary funding would give better balance to the examination of support cost arrangements. The next step in the process will be to determine in what relative proportions funding sources and the technical agencies of the United Nations system should cover those necessary costs. This, in turn, will have to be seen at great length by the relevant governing bodies'.

29. Relative to the overall issue of agency support costs, the Executive Board may wish to adopt a decision along the following lines:

The Executive Board,

1. Recalling decision 7.1 taken at its 132nd session which had reaffirmed the validity of the 1970 Consensus, particularly with respect to the fullest possible utilization of United Nations agencies in the implementation of multilateral technical co-operation programmes and projects,
2. Recalling also its earlier decisions which had fully endorsed system-wide efforts to improve the efficiency and quality of multilateral technical co-operation,
3. Having examined Part I of document 134 EX/16 and the 'Report of the Expert Group on Successor Arrangements for Support Costs and Related Issues' (DP/1990/9),
4. Expresses concern that the first recommendation of the Expert Group relative to the tripartite relationship and future roles (para. 479a of DP/1990/9), which seeks a more flexible interpretation of the Consensus, may lead to an undermining of multilateralism and a weakening of the existing symbiosis between the regular programme and operational activities of the United Nations agencies;
5. Urges the UNDP Governing Council and the Administrator to take a cautious approach to an increased use of alternative modalities and, concurrently, to use the authority and resources of UNDP to assist the United Nations agencies in improving project quality and cost effectiveness, and to ensure the full utilization of the technical and management capacities of the United Nations system at all stages of the programme and project cycle, in line with the terms of United Nations General Assembly resolutions 42/196 and 43/199;
6. Reiterates its support for the optimal utilization of the government execution modality;
7. Stresses however its view that the substantive backstopping of this modality which may be required should be provided by United Nations agencies and that adequate compensation should be foreseen for this in any new support cost arrangements;
8. Reiterates the importance of UNDP's role as team leader and central co-ordinator of United Nations system operational activities at the field level; and notes that the role of UNDP as an executing agency may run counter to the full achievement of the central co-ordinating role;
9. Considers that the support cost financing options described in the Expert Group Report will require further clarification in order to permit an objective assessment of their likely implications;

10. Recommends that, among the criteria which should determine the choice of successor arrangements for financing support costs, the following should be given special consideration:

they should be easy to understand and administer;

they should be applicable to all funding sources;

there should be an equitable sharing of costs between implementor and funding source;

compensation for services rendered should be on a stable and predictable basis;

11. Recommends, furthermore, that the interval between any Governing Council decision relative to new support cost arrangements, and its examination by ECOSOC and the General Assembly, be of at least one-year duration so that the likely incidence such a decision would have upon the programmes and budgets of participating United Nations system agencies may be assessed by their governing bodies in time for those assessments to be taken fully into account by ECOSOC and the General Assembly.

## PART II

The UNDP 'Standard Basic Executing Agency Agreement'

30. In August 1989, UNDP forwarded to Unesco a new 'Standard Basic Executing Agency Agreement', established by them to replace the 'Special Fund Agreement', which had been in force since 1960. Representatives from FAO, ILO, Unesco and WHO met in Geneva in order to harmonize their proposals for amendments to the Standard Agreement. Unesco returned a revised text to UNDP in November 1989, and final agreement was reached between the two Secretariats at the end of February 1990, after reviewing further some minor points.

31. The complete text of the Standard Basic Executing Agency Agreement is reproduced in the annex to this document. If it endorses this text, the Executive Board may wish to adopt the following decision:

The Executive Board,

1. Recalling decision 7.1 taken at its 132nd session, by which it authorized the Director-General to negotiate a basic Executing Agency Agreement between UNDP and Unesco,
2. Having examined the 'Standard Basic Executing Agency Agreement' annexed to the present document (134 EX/16),
3. Approves the said Agreement and authorizes the Director-General to proceed with the signature of this Agreement between UNDP and Unesco.

ANNEX

EXECUTING AGENCY AGREEMENT  
BETWEEN  
THE UNITED NATIONS DEVELOPMENT PROGRAMME  
AND  
THE UNITED NATIONS EDUCATIONAL,  
SCIENTIFIC AND CULTURAL ORGANIZATION

The United Nations Development Programme and the United Nations Educational, Scientific and Cultural Organization (hereinafter called the 'Parties'),

Considering that the General Assembly of the United Nations has established the United Nations Development Programme (hereinafter called the 'UNDP') to support and supplement the national efforts of developing countries to accelerate their economic and social development,

Mindful of the desire of the General Assembly that organizations of the United Nations system should play the role of partners in this common endeavour, and recalling the Consensus of 1970 (General Assembly Resolution 2688, XXV) which was reconfirmed by the UNDP Governing Council decision 89/20 of June 1989,

Conscious of the readiness of the United Nations Educational, Scientific and Cultural Organization (hereinafter called the 'Executing Agency') to participate in technical co-operation activities of the UNDP with recipient governments, designed to give effect to the resolutions and decisions of the United Nations General Assembly, the Economic and Social Council and the UNDP Governing Council (hereinafter referred to as the 'UNDP Governing Bodies'), and the General Conference and Executive Board of Unesco (hereinafter referred to as 'Executing Agency Governing Bodies'),

Determined to enhance the effectiveness of the UNDP as an instrument of international development co-operation with developing countries,

Have agreed as follows:

Article I

Scope of this Agreement

The Parties recognize their complementary roles in the field of international development co-operation and hereby agree to join efforts to maintain close and continuing working relationships in order to achieve their respective mandates as well as their individual and common purposes. The Executing Agency recognizes the role of leadership of the UNDP within the United Nations system in the implementation of UNDP programmes, and agrees to participate in partnership with the UNDP and the recipient governments concerned in the execution of technical co-operation activities (hereinafter referred to as 'Project(s)'). The relationship between the parties in the execution of such projects shall be governed by this Agreement.

## Article II

### Conditions of Execution of Projects

The basic conditions of execution of projects by the Executing Agency hereunder shall be those set forth in the relevant and applicable resolutions and decisions of the UNDP and the Executing Agency Governing Bodies, the Standard Basic Assistance Agreement (SBAA) and other similar agreements as the UNDP may enter into with recipient governments. Copy of the text of the Standard Basic Assistance Agreement with Governments in current use by the UNDP is annexed to this Agreement. The UNDP shall consult with the Executing Agency on any substantial variation in the agreements concluded with recipient governments directly affecting the Executing Agency and shall provide the Executing Agency with copies of individual signed agreements.

The particular conditions of and the specifications relating to such projects shall be as set forth in such project documents or other similar instruments as the UNDP, the Executing Agency, and the recipient government may conclude (hereinafter called 'Project Documents').

## Article III

### The UNDP Resident Representative

The parties recognize that the UNDP Resident Representative in a country has full responsibility and ultimate authority on behalf of the Administrator of the UNDP for all aspects of the UNDP programme in the country concerned. The UNDP Resident Representative, in that capacity, acts as team leader in relation to the representatives of the agencies participating in the programme taking into account the professional competence of the executing agency and its relationship with the appropriate organs of the recipient government. The Resident Representative also has the responsibility to assist the recipient government, as may be required, in co-ordinating the UNDP Programme with other national, bilateral and multilateral programmes within the country. For this purpose, the Executing Agency agrees to keep the Resident Representative informed on the planning and formulation of projects relevant to or regulated by this agreement and vice versa.

## Article IV

### Project co-operation

The Parties shall co-operate fully with each other and with the recipient government concerned in the execution of projects with a view to the realization of the objectives described in the project documents. The Parties shall consult with each other with respect to any matters which might affect the successful completion of any such projects.

## Article V

### Information regarding projects

1. The Parties shall from time to time exchange views with each other and with the recipient government on the progress of projects, the cost thereof and the benefits derived therefrom, and each shall comply with any reasonable request for information which the other may make in respect of such matters. The Executing Agency shall furnish the UNDP with periodic reports on the execution of projects at such times and in such forms as may be agreed to by the Parties.

2. The UNDP and the recipient government may at any time observe the progress of any projects carried out by the Executing Agency under this agreement, and the Executing Agency shall afford full facilities to the UNDP and the recipient government for this purpose.

#### Article VI

##### Conditions of project services

1. With a view to securing the highest standards of efficiency, competence and integrity in the execution of projects, the UNDP shall develop conditions of service for project staff in consultation with the appropriate organs of the United Nations system. The Executing Agency agrees to give sympathetic consideration to the adoption of any such conditions of service.

2. The Executing Agency agrees to observe to the maximum extent possible the principles of international competitive bidding in the procurement of goods and contracting of services for projects. The Executing Agency shall, in that context, give consideration:

- (a) to the requirements of the UNDP governing bodies to allow a margin of preference in procurement from developing countries and under-utilized major donor countries;
- (b) the need to make use of the various currencies available to the UNDP provided that such requirements and the use of the currencies are compatible with the Executing Agency's Rules and Regulations.

3. Experts, consultants and suppliers of goods and contractual services and in general all persons performing services for the Executing Agency as part of a project shall in all cases meet the highest standards in terms of qualifications, competence and acceptability.

#### Article VII

##### Agency status and accountability

In the execution of projects, the Executing Agency shall have the legal status of an independent contractor vis-à-vis the UNDP. The Executing Agency shall be accountable to the UNDP for its execution of such projects.

#### Article VIII

##### Intellectual property

1. Ownership of patent rights, copyright rights, and other similar rights to any discoveries, inventions or works resulting from execution of projects under this agreement (hereinafter called the 'Patent Rights') shall vest in the UNDP, in accordance with the requirements of the Standard Basic Assistance Agreement between the UNDP and the government concerned.

2. The Executing Agency shall inform the UNDP promptly of any occasion to claim or assert ownership to such Patent Rights, and of the steps it has taken to secure the patent rights. The Executing Agency agrees to take such steps at the expense of UNDP, as are necessary, in consultation with the UNDP and the recipient government concerned, to secure the protection of such Patent Rights through registration or otherwise in accordance with applicable law, and to ensure that recipient governments receive such licences as necessary to permit them to use or exploit such Patent Rights.

## Article IX

### Costs of projects

1. The UNDP undertakes to meet all costs directly incurred by the Executing Agency in the execution of projects, in the amounts specified in the project budgets forming part of the project documents or as otherwise agreed between the parties. It further undertakes to provide the Executing Agency with advances of funds in such amounts and currencies as will assist it in meeting current expenses of such projects.
2. The UNDP undertakes to share in such other costs, including undistributed costs of execution of projects, as the Executing Agency may incur in the provision of services to the UNDP under this agreement, in amounts determined in pursuance of the resolutions and decisions adopted by the UNDP governing bodies in consultation with the organizations of the United Nations system.
3. The Executing Agency shall be responsible for discharging all commitments and obligations with third parties incurred in the course of execution of projects pursuant to this Agreement. The UNDP shall not be responsible for any costs other than those specified under this Agreement.

## Article X

### Currency and rates of exchange

1. The parties shall consult from time to time regarding the use of currencies available to them, with a view to the effective utilization of such currencies.
2. The United Nations operational rate of exchange shall apply for currency conversions between the UNDP and the Executing Agency under this Agreement.

## Article XI

### Financial records and accounts

1. The Executing Agency shall maintain accounts, records and supporting documentation relating to projects, including funds received and disbursed by the Executing Agency, in accordance with the Executing Agency's Financial Regulations and Rules in so far as applicable.
2. The Executing Agency shall furnish to the UNDP periodic reports on the financial situation of projects in such form as UNDP may reasonably request, in compliance with the requirements of the UNDP governing bodies.
3. The Executing Agency shall cause its External Auditor or an independent external auditor to examine and report on the Executing Agency's accounts and records relating to projects, and shall make such External Auditor's reports available to the UNDP.
4. Without restricting the generality of the foregoing provisions, the Executing Agency shall as soon as possible after the close of each agreed period, submit to the UNDP audited statements of accounts showing the status of funds provided to it by the UNDP to finance projects.

5. The Executing Agency shall close the accounts of each project as soon as practicable, but normally no later than 12 months after the completion of the work set out in the project documents or termination of a project. Provisions shall be made for unliquidated obligations valid at the closing of the accounts.

## Article XII

### Suspension or termination of assistance

1. The parties hereto recognize that the successful completion and accomplishment of the purposes of a technical co-operation activity are of paramount importance, and that the UNDP may find it necessary to terminate its co-operation, or to modify the arrangements for execution of a technical co-operation activity, should circumstances arise which jeopardize successful completion or the accomplishment of the purposes of such an activity. The provisions of this Article shall apply to any such situations.

2. The UNDP shall consult with the Executing Agency if any circumstances, other than force majeure, arise which, in the judgement of the UNDP, interfere or threaten to interfere with the successful completion of a project, or the accomplishment of its purposes. The Executing Agency shall promptly inform the UNDP of any circumstances which might come to the Executing Agency's attention. The parties shall co-operate in remedying or eliminating the consequences of such circumstances and shall exert all reasonable efforts to that end, including prompt corrective steps by the Executing Agency where such circumstances are attributable to it or within its responsibility or control.

3. The UNDP may at any time after occurrence of such circumstances and appropriate consultations in connection therewith suspend the execution of a project by written notice to the Executing Agency and the recipient government, without prejudice to the initiation or continuation of any of the measures envisaged in the preceding paragraph. The UNDP may indicate to the Executing Agency and the recipient government of the conditions under which it is prepared to authorize a resumption of execution of the project concerned.

4. If the cause of suspension is not rectified or eliminated within 20 days after the UNDP shall have given notice of suspension to the recipient government and/or the Executing Agency, the UNDP may, by written notice at any time thereafter during the continuation of such cause:

(a) terminate the project; or

(b) terminate the Executing Agency's execution of such project and take over its execution or entrust it to another Executing Agency, with effect from the date specified in the written notice from the UNDP.

5. (a) In the event of any termination under the preceding paragraph, the UNDP shall reimburse the Executing Agency for all costs it may incur or may have incurred (and for which provision has been made in the Project Documents) to execute the Project concerned up to the effective date of the termination, including:

(i) executing agencies' support costs relating to the actual amount expended by the Executing Agency from the UNDP budget of the Project; and

(ii) reasonable costs of winding up its execution of the Project.

Reimbursement to the Executing Agency under this provision, when added to amounts previously remitted to it by the UNDP in respect of a Project, shall not exceed the total UNDP allocation for such Project.

(b) In the event of transfer of the Executing Agency's responsibilities for execution of a Project either to the UNDP or to another Executing Agency, the Executing Agency shall co-operate with the UNDP in the orderly transfer of such responsibilities.

6. Without prejudice to the foregoing provisions, in the event of force majeure, as generally defined in law, which prevent the successful execution of a Project by the Executing Agency, the Executing Agency shall promptly notify the UNDP of such occurrence and may with the agreement of the UNDP withdraw from execution of the Project. In case of such withdrawal, and unless the Parties agree otherwise, the Executing Agency shall be reimbursed the actual costs incurred up to the effective date of the withdrawal.

### Article XIII

#### Waiver of immunities

The privileges and immunities accorded to experts, consultants, firms, organizations and, in general, all persons performing services under the UNDP Basic Assistance Agreement with governments, may be waived by the Executing Agency where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the successful completion of the Project concerned or to the interests of the UNDP or the Executing Agency. The Executing Agency shall give sympathetic consideration to the waiver of such immunity in any case in which the UNDP so requests.

### Article XIV

#### Settlement of disputes

1. Any relevant matter for which no provision is made in this Agreement, or any controversy or dispute between the UNDP and the Executing Agency regarding the interpretation or application of this Agreement shall be settled by negotiation between the Parties, within the context of the relevant resolutions and decisions of the UNDP and the Executing Agency Governing Bodies.

2. In case any matters are not resolved by negotiation, either Party shall have the option to request the appointment of a conciliator or arbitrator by the President of the International Court of Justice. The procedure of the conciliation or arbitration shall be fixed, in consultation with the Parties, by the conciliator or arbitrator. The recommendation of the conciliator or the arbitral award shall contain a statement of the reasons on which it is based. The Parties shall give due consideration to the recommendation of a conciliator and abide by an arbitral award. The expenses of the conciliation or arbitration shall be borne equally by the Parties.

### Article XV

#### Termination

1. The Agreement may be terminated by either Party by written notice to the other and shall terminate 60 days after receipt of such notice, provided that termination shall become effective with respect to on-going Projects only with the concurrence of both Parties.

2. The provisions of this Agreement shall survive its termination to the extent necessary to permit an orderly settlement of accounts between the UNDP and the Executing Agency and, if appropriate, with each recipient government concerned, and so as to properly wind up the on-going project(s).

Article XVI

Modifications

This Agreement may be modified by written agreement between the Parties.

Article XVII

Entry into force

This Agreement shall enter into force upon signature, and shall continue in force until terminated under Article XV above.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed the present Agreement, in duplicate, on the dates and at the places indicated below their respective signatures.

for the United Nations  
Development Programme

for the United Nations Educational,  
Scientific and Cultural Organization

\_\_\_\_\_  
Signed on: \_\_\_\_\_ 1990

\_\_\_\_\_  
Signed on: \_\_\_\_\_ 1990

at: \_\_\_\_\_

at: \_\_\_\_\_