



**Governing Council
of the
United Nations
Development Programme**

Distr.
GENERAL

DP/1984/14/Add.1
2 March 1984

ORIGINAL: ENGLISH

Thirty-first session
June 1984, Geneva
Agenda item 4(c)

POLICY

PROGRAMME IMPLEMENTATION

SPECIAL PROGRAMMES OF ASSISTANCE

Assistance to Namibia

Note by the Administrator

Summary

This progress report is submitted in response to decision 83/10 dealing with support costs in respect of projects financed from the United Nations Fund for Namibia. It describes agency reactions to the proposal to grant total waiver of support costs in respect of projects financed from this Fund and the Commissioner of Namibia's views on the subject. The report also provides details on the agreement reached to treat, where appropriate, costs of projects as government cash counterpart contributions, in respect of which 3.5 per cent support costs are reimbursable.

The Administrator's recommendation is contained in paragraph 9 of his report.

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1. At its thirtieth session, the Governing Council adopted decision 83/10 which deals with the issue of support cost payments for activities financed by the United Nations Fund for Namibia. In operative paragraph 1, section B, of this decision, the Governing Council "request[ed] the Administrator, in consultation with the executing agencies, to examine the feasibility and financial implications of waiving agency support costs in respect of projects financed from the United Nations Fund for Namibia as called for in General Assembly resolution 37/233 E." Furthermore, in operative paragraph 2, the Council "request[ed] the Administrator and the executing agencies to treat the contributions from the United Nations Fund for Namibia as government cash counterpart contributions so that the agencies would not charge support costs in respect of those contributions in excess of the amount of 3.5 per cent, in cases where the executing agencies have not yet waived their agency support costs in respect of projects financed from the United Nations Fund for Namibia."
2. At that session, the Associate Administrator informed the Council that the Administrator would bring the contents of operative paragraph 1 of the decision to the attention of executing agencies in order to obtain their views on the feasibility and the financial implications to them of waiving agency support costs in respect of projects financed from the United Nations Fund for Namibia. As to operative paragraph 2, he informed the Council that the Administrator intended to seek the advice of the United Nations Office of Legal Affairs on the possibility of considering contributions to projects by the United Nations Fund for Namibia as government cash counterpart contributions (GCCC).
3. Subsequently, the Administrator held several consultations with executing agencies on the issues concerned, initially in the Consultative Committee on Administrative Questions (CCAQ(FB)) and later at the UNDP Inter-Agency Consultative Meeting (IACM) held in December 1983, followed by written communications. Likewise, several consultations were held with the United Nations Office of Legal Affairs to obtain its views on the issue of treatment as GCCC of the contributions emanating from the United Nations Fund for Namibia.
4. With regard to the issue of full waiver of agency support costs in respect of activities financed by funds provided by the United Nations Fund for Namibia, the Administrator recognized that this was a matter primarily of concern to the executing agencies and therefore intended to consult with them and obtain their views for the purpose of reporting back to the Council. It was further recognized that agency views would depend on a variety of considerations, some of which may be relevant collectively to all of them, while others may be specific to certain agencies. In the discussion of the subject in the CCAQ(FB), several organizations which had implemented such projects observed that in their experience the support costs which had actually been incurred in respect of these projects had been extremely high. As a result, support costs of these activities were heavily subsidized by

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these agencies. Other agencies pointed out that they were bound by decisions of their governing bodies to apply the standard 13 per cent support cost rate in all cases, or in all cases where it was not demonstrated that actual support costs amounted to a lower proportion of project costs. It was also recalled by agencies that when the organizations had agreed to accept the new 13 per cent rate in 1980, it had been on the understanding that the rate would be of general applicability. For all these reasons they did not find themselves in a position to accede to the request to waive support costs. One agency advised the Administrator later that until now it had waived all agency support cost reimbursements for projects financed by the United Nations Fund for Namibia. The agency further informed UNDP that its Director-General retained his prerogative to waive agency support costs altogether on ongoing and future projects financed from the Fund, on a case-by-case basis.

5. With respect to the issue raised in operative paragraph 2 of the Governing Council decision dealing with the possibility of treating as GCCC projects financed by the United Nations Fund for Namibia, the conclusions reached by the United Nations Office of Legal Affairs can be summarized as follows:

(a) As the United Nations Council for Namibia is the legal administering authority for Namibia and exercises functions of a governmental nature, it is legally possible to regard funds provided from the United Nations Fund for Namibia as funds received from a governmental source;

(b) The special situation of Namibia must be recognized. Its legal administering authority does not function within its own territory, and UNDP-supported projects for Namibia are carried out, not in the territory of Namibia, but only in the territory of other countries;

(c) In view of (b) above, it is not unreasonable to regard as GCCC those project costs which are incurred at the location of the project itself and which, except for the fact that the recipient Government is not the Government of the locality, could under normal UNDP procedures be financed by GCCC;

(d) The type of expenditures described in (c) above could, accordingly, be provided for in project budgets as GCCC and the established support cost reimbursement rate of 3.5 per cent could apply to such expenditure;

(e) The rationale for applying a lower rate of support cost reimbursement to expenditure out of GCCC is that such expenditure involves less support cost on the part of the executing agencies concerned and that this would be taken into account in determining what expenditure could appropriately be described as cash counterpart in project budgets.

6. In the discussion of the subject with executing agencies, the Associate Administrator provided further clarification of this position: that under this interpretation it was not intended to treat all the contributions to projects

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from funds provided by the United Nations Fund for Namibia as GCCC; rather, only that part of project expenditure which was utilized in neighboring countries acting as hosts for Namibia project activities and which would be considered GCCC had the project been those of the neighboring countries would be so regarded. Such project expenditure would be subject to support cost reimbursement at 3.5 per cent in those cases where the agencies had not waived their support costs in full. He emphasized that the United Nations Council for Namibia was the legal administering authority for Namibia and only by virtue of force majeure was neither it nor the projects it financed physically located in the country. In these circumstances the proposed treatment appeared to be legally viable and fully justified.

7. Most agencies have agreed to support this interpretation of GCCC of funds provided by the United Nations Fund for Namibia. One of these agencies stated its agreement to apply this interpretation strictly in accordance with the definition of GCCC contained in the Policies and Procedures Manual (PPM) defining GCCC as locally available buildings, materials, equipment, supplies, labor and professional services required for the implementation of a project. Some agencies pointed to the fact that they were not currently executing projects financed by the United Nations Fund for Namibia and therefore would not be affected by any conclusion.

8. Finally, on 26 January 1984 the United Nations Commissioner for Namibia sent a communication to the Associate Administrator, part of which is quoted below:

"As I indicated in my statement made on 7 December 1983 at the Inter-Agency Consultative Meeting, my Office supports the views contained in CRP No. 1 of 18 November 1983 which concludes '(that) it is not unreasonable to regard as GCCC those project costs which are incurred at the location of the project itself and which, except for the fact that the recipient Government is not the Government of the locality, could under normal UNDP procedures be financed by government cash counterpart contributions. Hence support costs for this type of expenditures could be charged at the established rate of 3.5%.'

"However, as I also mentioned in my statement, the General Assembly has urged the executing agencies to grant a full waiver of their standard support costs in respect of Namibia. In this connexion, I wish to reiterate two observations. First, those agencies which have already agreed to waive support costs should continue to do so. Second, as the United Nations has assumed direct responsibility for the Territory until independence, Namibia should indeed be considered as a special case, and I therefore reserve the right to pursue the matter further through direct negotiations with each individual agency.

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"I found the debate of the meeting to be most fruitful, and I look forward to continued consultations with your office prior to the consideration of the issue at the thirty-first session of the Governing Council."

9. In conclusion, the Administrator recommends that:

The Governing Council,

(a) Take note of DP/1984/14/Add.1 dealing with reimbursement of support costs for project activities financed from the United Nations Fund for Namibia;

(b) Express appreciation to the Administrator and to the executing agencies for action taken to treat part of the costs of projects, where appropriate, as GCCC and approve this modality;

(c) Take further note of agencies' views on the possibility of granting total waiver of support costs in respect of projects financed by the United Nations Fund for Namibia and the Commissioner's views on the subject; and

(d) Note that the Commissioner for Namibia intends to continue discussions with the executing agencies implementing such projects with the view of obtaining full waiver of such support costs."

