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P O L I C Y

FINANCIAL, BUDGETARY AND ADMINISTRATIVE MATTERS

UNDP FINANCIAL REGULATIONS

Matters on which consensus was not achieved  
at the thirty-first session

Note by the Administrator

Summary

This document provides the text of those UNDP Financial Regulations on which consensus was not reached at the thirty-first session of the Governing Council, as well as the text of subparagraphs 8(b) and 8(c) of decision 81/16 which the Administrator has identified as the other questions on which consensus has not been reached.

In accordance with decision 84/36, these matters are to be considered by the Budgetary and Finance Committee during its meeting commencing immediately prior to the thirty-second session of the Governing Council.

This document also contains proposals by the Administrator for the adoption by the Council of certain UNDP Financial Regulations, without prejudice to the outcome of substantive issues on which consensus has not yet been achieved.

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#### A. Background

1. At its twenty-eighth session, the Governing Council decided that the Budgetary and Finance Committee would consider during its meeting commencing immediately prior to the twenty-ninth session those parts of the Financial Regulations and other questions on which consensus was not reached at the twenty-eighth session (decision 81/46).

2. These matters have been discussed in the Budgetary and Finance Committee at the past three sessions of the Governing Council without consensus being reached. At its thirty-first session, the Governing Council decided that the Budgetary and Finance Committee would consider them again during its meeting commencing immediately prior to the thirty-second session (decision 84/36).

3. The Financial Regulations on which consensus has not been reached were those contained in the Administrator's proposals for new Financial Regulations as regulations 3.5, 3.6, 12.3 and 12.4 (DP/552/Add.1), as well as a new regulation 3.6 which was proposed at the twenty-eighth session. (These were subsequently renumbered 4.5, 4.7, 13.3, 13.4, and 4.6 respectively, following the approval by the Council of a new article III, entitled "Accountability".) The Council, in paragraph 2 of its decision 81/28, decided that these five regulations should remain in brackets and that the old financial regulations 6.4, 6.6, 4.2 and 4.3 should apply until a decision had been reached. The text of the five proposed new regulations and of the four old regulations, as presented in the UNDP Financial Regulations issued in December 1981 (UNDP/FIN/REG/1), is attached as annex I to this note.

4. With regard to other questions on which consensus has not been reached, the Administrator, in a note verbale dated 30 July 1981, identified these as the matters dealt with in subparagraphs 8(b) and 8(c) of decision 81/16, Preparation for the third programming cycle, 1982-1986. The texts of these two subparagraphs, which also appear as subparagraphs 16(b) and 16(c) of decision 80/30, are attached as annex II to this note.

5. For the convenience of the members of the Council, the attached regulations and the two subparagraphs of decision 81/16 have been identified in annexes I and II by the letters A through L.

#### B. Administrator's proposals

6. In the course of the Budgetary and Finance Committee's discussion of these issues in 1984, it was pointed out that some of the proposed new regulations which had not been approved were identical to, or virtually the same as, the corresponding old regulations which remained in effect pending any agreement on the new proposals. Accordingly, it was suggested that in these cases the proposed new regulations could be approved in place of their old counterparts without affecting the substance of the issues which were still under contention.

7. Specifically, and in terms of the alphabetic references used in annex I to this document for the purpose of identifying the relevant texts, the Administrator's proposals related to:

(a) The approval of "A", the regulation as proposed by the Administrator in 1981, in place of "D", the regulation approved prior to 1981 which remains in force. The text of "A", the regulation proposed by the Administrator in 1981, is as follows:

"Voluntary contributions shall be made in currencies which are readily usable by UNDP, consistent with the need for efficiency and economy of operations, or convertible to the greatest possible extent into currencies readily usable by UNDP."

As shown in annex I, the text of "D", the regulation which the Council has decided should remain in effect, is exactly the same as "A". Since these texts are identical, approval of "A" in place of "D" does not involve any change in substance;

(b) The approval of "C", the regulation proposed by the Administrator in 1981, in place of "F", the regulation approved prior to 1981 which remains in force. The text of "C", the regulation proposed by the Administrator in 1981, is as follows:

"The Administrator shall report annually to the Governing Council on the nature of restrictions on the use of voluntary contributions and the extent to which such restrictions have affected the flexibility, efficiency and economy of UNDP operations."

As shown in annex I, the text of "F", the regulation which the Council has decided should remain in effect, is exactly the same as "C". Since these texts are identical, approval of "C" in place of "F" does not involve any change in substance;

(c) The approval of "G", which was proposed by the Administrator in 1981 and which reads as follows:

"The Administrator may, in the absence of restrictions imposed by contributing Governments, exchange currencies between UNDP funds and funds of other organizations in the United Nations system and may utilize them to purchase other currencies, whenever the Administrator determines it would be in the interest of UNDP."

in place of "H", a regulation approved prior to 1981 which remains in force and which reads as follows:

"In agreement with the Administrator, the Secretary-General may, in the absence of restrictions imposed by contributing Governments, exchange UNDP currencies with other funds for which the Secretary-General is the custodian and, when required, utilize currencies in the UNDP account to purchase other currencies."

In this case the regulation proposed by the Administrator in 1981 is different from the existing regulation in the following respects:

- (i) It authorizes the Administrator, rather than the Secretary-General, to exchange currencies held by UNDP;
- (ii) It authorizes such exchanges with currencies held by any organization in the United Nations system, rather than only with funds "for which the Secretary-General is the custodian";
- (iii) It allows for the purchase of other currencies "whenever the Administrator determines it would be in the interest of UNDP", rather than "when required".

In each of these respects the regulation proposed by the Administrator in 1981 better reflected the requirements and practice of UNDP at that time when the Administrator already had full authority to exchange UNDP currencies;

(d) The approval of "I", which was proposed by the Administrator in 1981 and which reads as follows:

"The Administrator and the executing agencies shall endeavour, consistent with the need for efficiency and economy of operations, to make the fullest possible use of all available currencies in the UNDP account."

in place of "J", a regulation approved prior to 1981 which remains in force and which reads as follows:

"The Administrator and the participating and executing agencies shall endeavour, consistent with the need for efficiency and economy of operations, to make the fullest possible use of all available currencies in the UNDP account."

The only change proposed by the Administrator in this case was the substitution of the phrase "executing agencies" for "participating and executing agencies". This modification is necessary to ensure consistency with the definitions provided in the new UNDP Financial Regulations approved in 1981. In those regulations the term "executing agencies" is used whenever reference is intended to be made to all entities to which the Administrator may entrust the implementation of UNDP assistance to a project and has been defined in financial regulation 2.1(h) as covering:

- "(i) A recipient Government or Governments;
- (ii) Organizations of the United Nations system, i.e. the United Nations, the specialized agencies, the International Atomic Energy Agency and other organizations that are or become part of the United Nations system. These organizations are referred to as Participating and Executing Agencies;
- (iii) A governmental or intergovernmental institution or agency not part of the United Nations system;
- (iv) The UNDP itself."

8. In consultation with the United Nations Office of Legal Affairs, the Administrator has carefully considered the implications of the Council's adopting the regulations proposed by him in 1981 ("A", "C", "G", and "I") and has concluded that:

(a) They either involve no change in substance of the regulations or better reflect the requirements and current practice of UNDP;

(b) They do not, to his knowledge, involve regulations which have been the subject of controversy in the Council;

(c) Their adoption would greatly simplify the presentation in future documentation, as may be necessary, of those issues on which consensus has not been achieved;

(d) Their adoption would serve to highlight and focus attention on those other issues which may remain under contention.

9. Annex III to this document shows how the relevant financial regulations would appear in the UNDP Financial Regulations if the Administrator's proposals were to be approved by the Council. It should be noted that the contents of annex III would entirely replace the contents of annex I in the UNDP Financial Regulations. The issues contained in annex II would remain unaffected by this change, but should consensus be achieved on these issues then appropriate amendments to the financial regulations would be required in order to reflect the agreement reached.

10. The Administrator, after consultation with the United Nations Office of Legal Affairs, therefore recommends that these changes be approved by the Council, it being understood that this action would not in any way prejudice the outcome of the Council's deliberations on those other matters on which consensus has not been achieved and which are described in section C below.

C. Other matters on which consensus has not been achieved

11. If the Council were to agree on the proposals made by the Administrator in section B above, the outstanding issues on which consensus has not been achieved would be the following:

(a) Text "B" in annex I, which reads as follows:

"A voluntary contribution to UNDP shall be deemed readily usable if previous accumulations of contributions from the donor country amount to less than the contribution itself."

This represents a definition of the phrase "readily usable (currency)" which was proposed by a member of the Council in 1981;

(b) Text "K" in annex II is the text of bracketed paragraph 8(b) of decision 81/16. The words contained in round brackets reflect proposals put forward by two groups of members and the two different versions of this subparagraph could be rendered as follows:

Version 1: In view of the multilateral nature of the Programme, non-recipient donor countries which make their voluntary contributions wholly or partly in non-convertible currencies shall pay a gradually increasing share of their contributions in convertible currencies so that their contributions will be fully convertible by the year 1985.

Version 2: In view of the multilateral nature of the Programme, non-recipient donor countries which make their voluntary contributions wholly or partly in their national non-convertible currencies are requested to pay, if possible, a gradually increasing share of their contributions in convertible currencies.

(c) Text "L" in annex II is the text of bracketed paragraph 8(c) of decision 81/16. The words contained in round brackets reflect proposals put forward by different members of the Council and two different versions of this subparagraph could be rendered as follows:

Version 1: Meanwhile, entities headquartered in a net donor country which has contributed in a non-convertible currency shall be reimbursed for services and equipment purchased under the Programme only in the currency of that country where such a currency is accumulated and until such accumulation is used; conversely, if, when utilizing a non-convertible contribution, costs are incurred in other currencies, these shall be reimbursed to UNDP in the form of a convertible share of the non-convertible contributions.

Version 2: Meanwhile, entities headquartered in a net donor country which has contributed in a non-convertible currency shall be reimbursed for services and equipment purchased under the Programme in the currency in which the contribution is paid where such a currency is accumulated and until such accumulation is used.

These texts should be read in conjunction with the decision taken by the Council in February 1977, which reads as follows:

"(n) Requested the Administrator to take the necessary steps to ensure that all payments for goods and services (including the provision of equipment, subcontracts, transport, etc.) rendered to all UNDP-financed projects by entities headquartered in countries whose currencies have been accumulated in UNDP are made exclusively in currencies in which their country contribution is paid to UNDP until these accumulations are used, and further requested the Administrator to make a detailed status report to the Governing Council as soon as possible but not later than the twenty-sixth session of the Council on (i) the measures he has taken to implement this request; and (ii) the problems, if any, he has encountered in its implementation."1/

#### Notes

1/Official Records of the Economic and Social Council, Twenty-third Session, Supplement No. 3, (E/5940), para. 58.





Annex I

EXTRACTS FROM UNDP/FIN/REG/1, DECEMBER 1981

A. UNDP/FIN/REG/1, (page 12)

The text of the following six regulations, all of which are pending further review by the Governing Council, must be read and/or applied only together with the related footnotes.

- A [Regulation<sup>a/</sup>: Voluntary contributions shall be made in currencies which are readily usable by UNDP, consistent with the need for efficiency and economy of operations, or convertible to the greatest possible extent into currencies readily usable by UNDP.]
- B [Regulation<sup>b/</sup>: A voluntary contribution to UNDP shall be deemed readily usable if previous accumulations of contributions from the donor country amount to less than the contribution itself.]
- C [Regulation<sup>c/</sup>: The Administrator shall report annually to the Governing Council on the nature of restrictions on the use of voluntary contributions and the extent to which such restrictions have affected the flexibility, efficiency and economy of UNDP operations.]
- D Regulation [4.5] 6.4<sup>d/</sup>: Voluntary contributions shall be made in currencies which are readily usable by UNDP, consistent with the need for efficiency and economy of operations, or convertible to the greatest possible extent into currencies readily usable by UNDP.
- E Regulation [4.6]<sup>e/</sup>: To be considered by the Governing Council.
- F Regulation [4.7] 6.6<sup>f/</sup>: The Administrator shall report annually to the Governing Council on the nature of restrictions on the use of voluntary contributions and the extent to which such restrictions have affected the flexibility, efficiency and economy of UNDP operations.

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a/ Included as regulation 3.5 in the Administrator's proposed revision of the UNDP Financial Regulations (DP/552/Add.1). Not approved by the Governing Council pending further consideration at its twenty-ninth session.

b/ Proposed by a member of the Governing Council as new regulation 3.6 to follow the Administrator's proposed regulation 3.5 (see footnote a/ above). Not approved by the Governing Council pending further consideration at its twenty-ninth session.

c/ Included as regulation 3.6 in the Administrator's proposed revision of the UNDP Financial Regulations (DP/552/Add.1). Not approved by the Governing Council pending further consideration at its twenty-ninth session.

d/ Pending consideration of the proposed regulations dealt with in footnotes a/ - c/ above, the Governing Council decided that current Regulation 6.4 shall remain in effect.

e/ Regulation number 4.6 reserved pending consideration by the Council of the proposed Regulations dealt with in footnotes a/ - c/ above.

f/ Pending consideration of the proposed regulations dealt with in footnotes a/ - c/ above, the Governing Council decided that current regulation 6.6 should remain in effect.

B. UNDP/FIN/REG/1 (page 26)

The text of the following four regulations, all of which are pending further review by the Governing Council, must be read and/or applied only together with the related footnotes.

Management of currencies

G [Regulation<sup>a/</sup>: The Administrator may, in the absence of restrictions imposed by contributing Governments, exchange currencies between UNDP funds and funds of other organizations in the United Nations system and may utilize them to purchase other currencies, whenever the Administrator determines it would be in the interest of UNDP.]

H Regulation [13.3] 4.2<sup>b/</sup>: In agreement with the Administrator, the Secretary-General may, in the absence of restrictions imposed by contributing Governments, exchange UNDP currencies with other funds for which the Secretary-General is the custodian and, when required, utilize currencies in the UNDP account to purchase other currencies.

I [Regulation<sup>c/</sup>: The Administrator and the executing agencies shall endeavour, consistent with the need for efficiency and economy of operations, to make the fullest possible use of all available currencies in the UNDP account.]

J Regulation [13.4] 4.3<sup>d/</sup>: The Administrator and the participating and executing agencies shall endeavour, consistent with the need for efficiency and economy of operations, to make the fullest possible use of all available currencies in the UNDP account.

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a/ Included as regulation 12.3 in the Administrator's proposed revision of the UNDP Financial Regulations (DP/552/Add.1). Not approved by the Governing Council pending further consideration at its twenty-ninth session.

b/ Pending consideration of the proposed regulation dealt with in footnote a/ above, the Governing Council decided that current regulation 4.2 should remain in effect.

c/ Included as regulation 12.4 in the Administrator's proposed revision of the UNDP Financial Regulations (DP/552/Add.1). Not approved by the Governing Council pending further consideration at its twenty-ninth session.

d/ Pending consideration of the proposed regulation dealt with in footnote c/ above, the Governing Council decided that current regulation 4.3 shall remain in effect.

Annex II

EXTRACT FROM PARAGRAPH 8 DECISION 81/16,  
PREPARATION FOR THE THIRD PROGRAMMING CYCLE, 1982-1986

- K 8(b). [In view of the multilateral nature of the Programme, non-recipient donor countries which make their voluntary contributions wholly or partly in (their national) non-convertible currencies (shall pay) (are requested if possible to pay) a gradually increasing share of their contributions in convertible currencies (so that their contributions will be fully convertible by the year 1985)].
- L 8(c). [Meanwhile, entities headquartered in net donor countries which have contributed in non-convertible currencies where such currencies are accumulated and until such accumulations are used shall be reimbursed for services and equipment purchased under the Programme (only in the currency of that country) (in the currencies in which their contribution is paid): (conversely, if, when utilizing a non-convertible contribution, costs are incurred in other currencies, these shall be reimbursed to UNDP in the form of a convertible share of the non-convertible contributions)].



Annex III

UNDP FINANCIAL REGULATIONS CONCERNING VOLUNTARY CONTRIBUTIONS AND MANAGEMENT OF CURRENCIES AS THEY WOULD APPEAR IF THE ADMINISTRATOR'S PROPOSALS AS CONTAINED IN SECTION B OF THIS DOCUMENT WERE TO BE APPROVED BY THE COUNCIL

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Regulation 4.5: Voluntary contributions shall be made in currencies which are readily usable by UNDP, consistent with the need for efficiency and economy of operations, or convertible to the greatest possible extent into currencies readily usable by UNDP.

[Regulation 4.6: A voluntary contribution to UNDP shall be deemed readily usable if previous accumulations of contributions from the donor country amount to less than the contribution itself.]a/

Regulation 4.7: The Administrator shall report annually to the Governing Council on the nature of restrictions on the use of voluntary contributions and the extent to which such restrictions have affected the flexibility, efficiency and economy of UNDP operations.

Management of currencies

Regulation 13.3: The Administrator may, in the absence of restrictions imposed by contributing Governments, exchange currencies between UNDP funds and funds of other organizations in the United Nations system and may utilize them to purchase other currencies, whenever the Administrator determines it would be in the interest of UNDP.

Regulation 13.4: The Administrator and the executing agencies shall endeavour, consistent with the need for efficiency and economy of operations, to make the fullest possible use of all available currencies in the UNDP account.

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a/Proposed by a member of the Governing Council at the twenty-eighth session. Not approved by the Governing Council pending further consideration at subsequent sessions.

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