Thirty-sixth session
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PROGRAMME IMPLEMENTATION

IMPLEMENTATION OF DECISIONS ADOPTED BY THE GOVERNING COUNCIL
AT PREVIOUS SESSIONS

REVIEW OF PROGRAMME AND PROJECT ACTIVITIES

Agency accountability

Report of the Administrator

SUMMARY

The Governing Council, in its decision 88/19 of 1 July 1988, requested inter alia the Administrator to report on his efforts to reach agreement with those executing agencies that have not yet signed the Standard Basic Agreement with the United Nations Development Programme (UNDP). The present report therefore addresses the question of the status of agreements between UNDP and executing agencies. An explanation is given as to the reasons why some of the major executing agencies of the United Nations system are not signatories of a standard basic agreement. The report makes proposals for regularizing this situation and recommends that this question await the completion of the study on successor arrangements to agency support costs, since the latter has a direct bearing on defining future UNDP/agency relations with project implementation.
I. INTRODUCTION

1. In its decision 88/19 of 1 July 1988, the Governing Council requested the Administrator to report to the Council at its thirty-sixth session in 1989 on his efforts to identify, with the full participation and collaboration of executing agencies, options for ensuring increased agency accountability for project delivery. The Council further requested the Administrator to report on his efforts concerning the signing of a standard basic agreement between the United Nations Development Programme (UNDP) and executing agencies.

2. The question of agency accountability within the overall accountability of UNDP in the administration of technical co-operation funds is one that is being taken up by the expert group on successor arrangements to agency support costs. The subject will be reported on in a comprehensive manner at the thirty-seventh session of the Governing Council in June 1990 as part of the report of the expert group on successor arrangements. The present report therefore addresses only the question of the status of agreements between UNDP and its executing agencies.

II. STATUS OF AGENCY AGREEMENTS

3. There are currently 31 organizations listed as executing agencies for UNDP; of these, 11 have signed the Standard Basic Executing Agency Agreement (SBEAA). The signatories include four United Nations agencies - International Civil Aviation Organization (ICAO), International Fund for Agricultural Development (IFAD), World Intellectual Property Organization (WIPO) and World Tourism Organization (WTO); six development banks (the World Bank and the African, Asian, Caribbean, Inter-American and Islamic Development Banks); and the International Finance Corporation. Four regional commissions (Economic Commission for Africa (ECA), Economic Commission for Europe (ECE), Economic Commission for Latin America and the Caribbean (ECLAC) and Economic and Social Commission for Asia and the Pacific (ESCAP)) and the United Nations Centre for Human Settlements (UNCHS) have agreed, in an exchange of letters, to be guided by the terms of the SBEAA.

4. The following executing agencies, a total of 15, have not signed the SBEAA. They include 10 specialized agencies - International Labour Organisation (ILO), Food and Agriculture Organization of the United Nations (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), Universal Postal Union (UPU), International Telecommunication Union (ITU), World Meteorological Organization (WMO), International Maritime Organization (IMO), United Nations Industrial Development Organization (UNIDO) and International Atomic Energy Agency (IAEA) - and four subsidiary organs of the United Nations, among them a regional commission - the Department for Technical Co-operation for Development, United Nations Secretariat (DTCD), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Centre on Transnational Corporations (UNCTC) and the Economic and Social Commission for Western Asia (ESCWA) - and the Arab Fund for Economic and Social Development (AFESD), which is an entity outside of the United Nations system. Negotiations are at present under way with UNIDO for signing the SBEAA.
5. Major UNDP executing agencies have, however, signed earlier agreements with the Special Fund, UNDP's predecessor. The following agencies have signed agreements with the Special Fund: United Nations, UNCTAD, ILO, FAO, UNESCO, WHO, UPU, WMO, ITU, UNIDO and IAEA. In the case of the United Nations, UNCTAD and UNIDO, the agreements are in the form of an exchange of memoranda. In the case of ILO, FAO, UNESCO, WHO, UPU, ITU, WMO and IAEA, the agreements are standard Special Fund/executing agency texts.

6. Four agencies, namely, UNCTC, ESCWA, IMO and AFESD, are not covered by an SBEAA or Special Fund/executing agency agreement.

7. UNCTC and ESCWA, as subsidiary organs of the United Nations, need simply to confirm their agreement to be guided by the terms of the SBEA. In regard to entities which do not perform executing agency functions on a regular basis and which are called upon only occasionally to execute projects, such as AFESD, the practice in the past has been to use less formal arrangements. The participation of AFESD as an executing agency for UNDP was governed by an informal exchange of letters in 1975.

III. COMPARISON OF THE SPECIAL FUND AGREEMENT AND THE STANDARD BASIC EXECUTING AGENCY AGREEMENT

8. The Special Fund Agreement (SFA) with executing agencies came into being with the creation of the Special Fund. One of the main reasons for drawing up a specific agreement with the agencies at that time was in order to reflect more of a contractual relationship between the Special Fund and its executing agencies than had existed under the Expanded Programme of Technical Assistance (EPTA). The SFA specifically emphasizes this contractual relationship. Article III of the SFA states, inter alia: "The Executing Agency shall have the status vis-à-vis the Special Fund of an independent contractor, and its personnel shall not be considered as staff members or agents of the Special Fund".

9. The Standard Basic Executing Agency Agreement (SBEA), drawn up in 1975, was meant to meet a twofold need. First, to provide an up-to-date text for executing agencies that had recently achieved that status (WIPO, WTO, ESCAP and AFESD) as well as for executing agencies that had achieved that status some time earlier, but after the Special Fund had been abolished and succeeded by UNDP (World Bank, Asian Development Bank).

10. Secondly, the SBEAA was needed to reflect the concepts underlying the consensus of General Assembly resolution 2688 (XXV) of 11 December 1970. The SBEAA thus introduces, inter alia, the following new provisions:

   (a) Article I states that the executing agency recognizes the leadership of UNDP within the United Nations system for the achievement of its purpose (i.e., the administration of central technical co-operation funds).

   (b) Article III further states that the executing agency recognizes the resident representative as the central co-ordinating authority for all technical co-operation programmes of the United Nations system.
(c) Article VI, paragraph 3, states that: "Experts, consultants and suppliers of goods and contractual services and in general all persons performing services for the Executing Agency as part of a technical co-operation activity shall in all cases be acceptable to the UNDP".

(d) Article VII states that: "In the execution of technical co-operation activities, the Executing Agency shall have the status of an independent contractor vis-à-vis the UNDP. The Executing Agency shall be accountable to the UNDP for its execution of such activities".

11. The major agencies that had earlier signed the SFA did not accept the SBEAA and wished the question of a UNDP-agency agreement to be collectively discussed with UNDP. The position of UNDP at the time was that discussions should be with individual agencies and that these negotiations should have as a starting point the proposed SBEAA. After three years of correspondence and meetings that did not yield much result, UNDP decided that the SBEAA would be used for new executing agencies. As regards agencies that had agreements with the Special Fund, UNDP would be content to base its relationship with these agencies on the said agreements.

IV. CONCLUSIONS

12. It may be argued that agencies that have not signed the SBEAA, through the act of signing a project document are thereby none the less bound by many of the provisions introduced in the SBEAA. This is because it is stipulated in all project documents that projects are to be implemented within the provisions of the Standard Basic Agreement with the Government. In the Standard Basic Agreement with Governments there is a standard clause in article I stating that the assistance given to the Government shall be furnished and received in accordance with the relevant and applicable resolutions and decisions of the competent UNDP organs.

13. Thus, the concept of accountability as contained in paragraph 43 of the annex to General Assembly resolution 2688 (XXV) is binding on all executing agencies that sign UNDP project documents. Paragraph 43 reads "Every executing agent will be accountable to the Administrator for the implementation of programme assistance to projects". Furthermore, all decisions of the Governing Council dealing with these questions are similarly binding on executing agencies as signatories of individual project documents.

14. The issue however of how accountability is to be discharged in practice is still unresolved. There is a complex of relationships between Governments, UNDP and agencies that need to be defined and reconciled. Since it is precisely these relationships that are the subject of the study mentioned in paragraph 2 above, it may be necessary to review the SBEAA once the Governing Council has considered the findings and recommendations of the study and reached decisions on them.