

# UNDP'S NATIONAL EXECUTION MODALITY: ON THE ROAD TO TURNING THE MANAGEMENT OF DEVELOPMENT PROGRAMMES OVER TO PROGRAMME GOVERNMENTS

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## I. INTRODUCTION

The United Nations Development Programme (UNDP) is the cornerstone of the United Nations efforts in the field of international development cooperation and operates as the central funding and catalytic mechanism of the United Nations development system. From its origins in the Expanded Programme of Technical Assistance and Special Fund to the present, UNDP has continually adapted itself to the changing needs of programme countries and the evolving nature of international development.

Developing cooperation in the 60s and early 70s was largely perceived as technical assistance: the transfer of skills, technology and knowledge from the advanced and rich countries to the poor countries of the third world. In keeping with the times, UNDP used Specialized Agencies,<sup>1</sup> such as FAO and UNESCO,

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1. Organizations brought into relationship with the United Nations under Article 63 of the Charter.

largely staffed by people from developed countries to provide technical assistance.

It is widely accepted today that a more cooperative approach to the provision of development assistance is necessary,<sup>2</sup> one where there is partnership among people and active participation by those in the programme country in the design and implementation of development programmes and projects.<sup>3</sup> In UNDP, the main instrument to convey this approach to the provision of development assistance is known as national execution.

This paper documents UNDP's transition from the traditional model of providing development assistance referred to above, which used Specialized Agencies as UNDP's technical and managerial agents, known as the tripartite relationship among UNDP, the Specialized Agencies and programme country governments, or agency execution, to national execution, where governments assume overall responsibility for such management.

In order to understand UNDP and the significance of this transition, Section One describes UNDP's origins in the Expanded Programme of Technical Assistance and the Special Fund as well as the subsequent merger of these two programmes to form UNDP. Section Two traces the institutionalization of national execution in UNDP as the norm for the provision of development assistance. Finally, Section Three gives an overview of the promises and challenges of national execution.

## II. SECTION ONE

### A. *The Expanded Programme of Technical Assistance*

The Expanded Programme of Technical Assistance was approved by the General Assembly in its resolution 304 (IV) of 16 November 1949, on recommendation of the Economic and Social Council, with the primary objective of helping under-developed countries to "strengthen their national economies through the development of their industries and agriculture, with a view to promoting their economic and political independence in the spirit of the Charter of the United Nations, and to ensure the attainment of higher levels of economic and social welfare for their entire populations."<sup>4</sup> It was the first attempt by the United Nations to provide technical assistance on a large scale.<sup>5</sup> An analysis of the principles on which the Expanded Programme was based and

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2. THE COMMISSION ON GLOBAL GOVERNANCE, OUR GLOBAL NEIGHBORHOOD 189 (1995).

3. *Id.* at 191-92.

4. See *Economic Development of Under-developed Countries*, G.A. Res. No. 222 (IX), ECOSOC, at 14, 15 and Annex 1 ¶ 1 (Avg. 1949).

5. MAHYAR NASHAT, NATIONAL INTERESTS AND BUREAUCRACY VERSUS DEVELOPMENT AID 1 (1978).

the manner in which it functioned can help to understand UNDP today — and the significance of the shift to national execution.

The origins of the Expanded Programme can be traced to an earlier General Assembly resolution, resolution 200 (III), of 4 December 1948, in which the General Assembly considered that “the promotion of conditions of economic and social progress and development [was] one of the principal objectives of the Charter of the *United Nations*” and that the lack of “expert personnel” and “technical organization” were among the factors impeding the economic development of underdeveloped countries.<sup>6</sup> The General Assembly considered further that the United Nations could extend “efficacious and timely help” and requested the Secretary-General to arrange the following:

- a. international teams of experts to advise Governments on their economic development programmes;
- b. facilities for the training of experts from under-developed countries through fellowships for study;
- c. facilities for the training of local technicians within the under-developed countries themselves; and
- d. facilities to assist Governments obtain technical personnel, equipment and supplies.<sup>7</sup>

The General Assembly requested the Secretary-General to report at each session on measures taken to implement the resolution and to formulate recommendations.<sup>8</sup>

In resolution 180 (VIII) of 4 March 1949, ECOSOC requested the Secretary-General, taking into account, inter alia, General Assembly resolution 200 (III) and the Secretary-General’s first report in response thereto,<sup>9</sup> to prepare a report in consultation with the executive heads of the interested specialized agencies setting forth:

1. A comprehensive plan for an expanded cooperative programme of technical assistance for economic development through the United Nations and its specialized agencies, paying due attention to questions of a social nature which directly condition economic development;
2. Methods of financing such a programme including special budgets; and

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6. *Technical Assistance for Economic Development*, G.A. Res. 200 (III), U.N. GAOR, ¶¶ 2(a)–2(b) (1948).

7. *Id.* ¶¶ 2, 3 (a)–(d).

8. *Id.* ¶ 6.

9. *Creation of a Central Publication for the Promotion of and Advising Development Projects*, U.N. GAOR, 8th Sess., U.N. Doc. E/1083/Add. (1949).

3. Ways of coordinating the planning and execution of the programme.<sup>10</sup>

In response to ECOSOC's request, the Secretary-General consulted with the executive heads of the International Labour Organization (ILO), the Food and Agriculture Organization (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), the International Civil Aviation Organization (ICAO), the International Bank for Reconstruction and Development (IBRD), the International Monetary Fund (IMF) and the International Refugee Organization (IRO); input was also received from a number of Member Governments and the Organization of American States.<sup>11</sup> The Secretary-General's Report in response to ECOSOC resolution 180 provided an overview of the objectives and nature of the programme, the fields of work, forms of technical assistance, organization, finance, and included detailed proposals by the above-referenced organizations, except the IMF and IRO which prepared statements instead along with the International Trade Organization (ITO).

In June 1949, the Secretary-General proposed that "ECOSOC give consideration to the expansion of the scope of the technical assistance programme."<sup>12</sup> Notably, the Secretary-General proposed comprehensive missions, advisory services by experts, training, seminars and publications, for a total increase in the 1950 budget for such activities to United States \$676,000 from United States \$307,750 appropriated for such purposes in 1949.<sup>13</sup>

The Secretary-General's March and June 1949 Reports provided the basis for ECOSOC Resolution 222 (IX), which set out the Observations and Guiding Principles of the Expanded Programme.

The Observations and Guiding Principles of the Expanded Programme contained in Annex I of ECOSOC resolution 222 (IX) were recommended by ECOSOC to serve as guides to the United Nations and the specialized agencies participating in the Expanded Programme (hereinafter collectively "Participating Organizations") and addressed the following areas: General Principles,<sup>14</sup> Standards of Work and Personnel, Participation of Requesting

10. *Technical Assistance for Economic Development*, G.A. Res. No. 180 (VIII), ECOSOC, at pmb1. and ¶¶ 1-3 (Mar. 1949).

11. U.N. SGR to ECOSOC, E/1327/Add.1, at vii, viii (1949).

12. *Addendum to Second Report by the Secretary-General*, U.N. GAOR, U.N. DOC. E/1335/Add.1, at 2 (1949).

13. *Id.* at 5 ¶ (f).

14. The general principles for the provision of technical assistance, taken from General Assembly resolution 200 (III), are as follows:

(a) Technical assistance for economic development of under-developed countries shall be rendered by the participating organizations only in agreement with the

Governments,<sup>15</sup> Coordination of Effort, Concentration and Economy, and Selection of Projects.

ECOSOC resolution 222 (IX) also set out the administrative and governing structure for the Expanded Programme. The Programme was governed by both a Technical Assistance Board (TAB) and a Technical Assistance Committee (TAC), both of which were to be guided by the Observations and Guiding Principles of the Expanded Programme.<sup>16</sup>

The TAB consisted of the executive heads of the Participating Organizations chaired by the Secretary-General or his representative, and included the United Nations, ILO, FAO, UNESCO, ICAO, and WHO.<sup>17</sup> The TAB provided a forum through which the Participating Organizations could come together and share information on new requests for assistance and ongoing activities. Each Participating Organization was required to present annual reports to the TAB on its proposed programme for the next year and the TAB was to make recommendations concerning the proposals and the overall programme to ECOSOC through the TAC. The Secretary-General was authorized to designate the Executive Secretary of the TAB, in consultation with the Participating Organizations, whose responsibility was to service the TAB.<sup>18</sup>

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- Governments concerned and on the basis of requests received from them;
  - (b) The kinds of services to be rendered to each country shall be decided by the Government concerned;
  - (c) The countries desiring assistance should perform, in advance, as much of the work as possible in order to define the nature and scope of the problem involved;
  - (d) The technical assistance furnished shall:
  - (e) Not be a means of foreign economic and political interference in the internal affairs of the country concerned and not be accompanied by any considerations of a political nature;
    - (i) Be given only to or through Governments;
    - (ii) Be designed to meet the needs of the country concerned; and
    - (iii) Be provided as far as possible in the form which that country desires

Technical Assistance for Economic Development, G.A. Res. No. 222 (IX), ECOSOC, 9th Sess., Agenda Item 9, at Annex I, ¶¶ 1-3, U.N. Doc. E/1335/Add.1 (1949).

15. Governments were to facilitate the activities requested from the Participating Organizations; and undertake sustained efforts required for economic development, including "progressive assumption of financial responsibility for the administration of projects initiated at their request under international auspices." *Id.* at Annex I ¶¶ 1, 5.

16. *Id.* at 7 ¶ 7.

17. Although not Participating Organizations, the IRBD, IMF, and IRO regularly attended and participated in the meetings of the TAB and pledged the fullest cooperation for the promotion of the objectives of the Programme. Report of the TAB, E/1742, at ¶ 7 (July 4, 1950). In addition, the International Telecommunications Union (ITU) and the World Meteorological Organization (WMO) became Participating Organizations on August 30, 1951 by ECOSOC resolution 400 (XIII), and the International Atomic Energy Association (IAEA) on October 23, 1958, by ECOSOC resolution 704 (XXVI) of the same date.

18. *Id.* at 5 ¶¶ 3-4.

The TAC was proposed as a standing committee of ECOSOC, consisting of the members of ECOSOC. The terms of reference for the TAC were as follows: to critically examine activities undertaken by the Programme and the results achieved; to examine each year's programme; to interpret ECOSOC resolution 222 (IX) in the event of conflicts; to receive reports from the TAB; and to review the working relationships between the Participating Organizations.<sup>19</sup>

At the first meeting of the TAB, a draft basic Agreement was prepared to be used in negotiating with the recipient countries regarding the provision of the technical assistance. The Agreement was based on the Observations and Guiding Principles contained in ECOSOC resolution 222 (IX), Annex I, and the experience of a number of international organizations.<sup>20</sup> The agreement set out the basic terms and conditions under which the Participating Agencies would provide technical assistance to the recipient countries and addressed issues relating to the type of assistance to be provided, administrative and financial arrangements and the privileges and immunities to be accorded to the Participating Agencies and their personnel.<sup>21</sup> The clauses in this early agreement are similar to those still being used today in UNDP's standard basic assistance agreement (SBAA).<sup>22</sup>

As has been shown, the Expanded Programme was truly a joint initiative of the United Nations and the Specialized Agencies. The Specialized Agencies were deeply involved in establishing the principles upon which technical assistance would be provided to Governments under the Expanded Programme. From the earliest efforts of the United Nations in the field of development cooperation, the Specialized Agencies assumed the role of providing and managing such assistance.

## B. *The Special Fund*

The Special Fund was established following a number of years of study by special committees of the General Assembly and ECOSOC on ways of enhancing urgent assistance to developing countries, as complementary to the work already done by the United Nations, the specialized agencies and the Expanded Programme.<sup>23</sup> The purpose was to "advance the process of technical,

19. *Id.* at 6 ¶ 6.

20. *Id.* ¶ 16.

21. Articles in the agreement addressed: Furnishing of Technical Assistance; Cooperation of the Government with Respect to the Provision of Technical Assistance; Administrative and Financial Obligations of the Parties; Facilities, Privileges and Immunities; Publication of Findings; Modification of Agreement, Supplemental Agreements and Termination. *Id.* at Annex I.

22. See discussion of SBAA below.

23. See *Resolutions Adopted on the Reports of the Second Committee*, G.A. Res. 923 (X) (1955); G.A. Res. 1030 (XI), U.N. GAOR, 537th mtg. (1957).

economic and social development of the less developed countries, and, in particular, [...to] facilitate new capital investments of all types - private and public, national and international - by creating conditions which would make such investments either feasible or more effective."<sup>24</sup>

By its resolution 1219 (XII), and on the basis of the reports prepared by the Ad hoc Committee on the Question of the Establishment of a Special United Nations Fund for Economic Development, the General Assembly established the basic conditions for the establishment of the Special Fund and the terms of reference of a Preparatory Committee, composed of representatives of sixteen Governments and appointed by the General Assembly.<sup>25</sup>

The Special Fund was intended to establish a new administrative and operational machinery to spearhead the enlargement of the scope of technical assistance available from the United Nations and the Specialized Agencies, to include such activities as "intensive surveys of water, mineral and potential power resources, the establishment-including staffing and equipping-of training institutes in public administration, statistics and technology, and agricultural and industrial research and productivity centres."<sup>26</sup>

The establishment of the Special Fund was accomplished in October 1958, by General Assembly resolution 1240 (XIII), entitled "Establishment of the Special Fund." The resolution was adopted on the recommendation of ECOSOC, which by its resolution 692 (XXVI) of 31 July 1958 had set out the basic principles and structure of the Fund, following review of the recommendations of the Preparatory Committee.<sup>27</sup>

The realization of the Special Fund was a unique accomplishment of the United Nations in the field of development. Many of the institutions until that time, such as UNICEF, had been by and large inherited from the League of Nations and so this was one of the new structures under the Charter of the United Nations. The Fund was provided a separate inter-governmental governing body, known as the Governing Council.<sup>28</sup> The Council was to exercise inter-governmental control of the policies and operations of the Fund, with final authority for the approval of the projects and programmes recommended by the Managing Director. It was to provide "general policy guidance on the administration and operations of the Special Fund." The management of the Fund was to be entrusted to a Management Director appointed by the Secretary-General after consultation with the Governing

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24. See *Financing of Economic Development*, G.A. Res. 1219 (XII), U.N. GAOR, 730th mtg. (1957).

25. G.A. Res. 1219 (XII) was adopted on December 14, 1957.

26. *Id.* ¶¶ 1-2.

27. See *Id.* ¶ 2.

28. The Governing Council was transformed into the Executive Board in 1994 as a result of General Assembly resolution 48/162 dated December 20, 1993.

Council and subject to confirmation by the General Assembly. The Management Director was to be advised by a Consultative Board consisting of the Secretary-General of the United Nations, the Executive Chairman of the Technical Assistance Board and the President of the International Bank for Reconstruction and Development or their designated representatives.<sup>29</sup>

Immediately following the Governing Council's second session in May of 1959, action was taken towards establishing the legal framework of Special Fund projects.<sup>30</sup> The Governing Council prepared standard agreements designed to govern the relations between the Special Fund on the one hand, and the recipient governments and executing agencies on the other.<sup>31</sup> These agreements were similar to those used by the Expanded Programme and embodied the conditions under which the Fund would provide each government with assistance. The Agreement specified the nature of participation of the government in the execution of projects, its counterpart contribution (provision of materials, equipment, supplies, etc.) as well as the provision of local facilities. The Agreement also dealt with the provision of privileges and immunities to be accorded to the Special Fund and the executing agencies, their property, funds and assets, and their personnel.<sup>32</sup>

The Standard Agreement with the Specialized Agencies, the UN or the IAEA when acting as Executing Agency, known as the Executing Agency Agreement, specified the respective responsibilities for the execution of projects and outlined the financial and reporting arrangements.<sup>33</sup> Pursuant to this agreement, the role of the Specialized Agencies under the Special Fund remained much the same as in the Expanded Programme. The Managing Director of the Fund was to rely on the assistance of the Specialized Agencies

29. The Consultative Board would seem to be the precursor of the modern day Management Committee established by the UNDP Executive Board for UNOPS.

30. *Implementation of the Programme Approved By the Governing Council at its Second Session*, U.N. GAOR, 3rd Sess., U.N. Doc. SF/L. 22, at 1, ¶ 2 (1959).

31. *Annual Report of the Managing Director of the Special Fund for 1959*, U.N. GAOR, 4th Sess., Agenda Item 5, U.N. Doc. SF/L.28, at 14 ¶ 28 (1960). *Drafted Standard Agreement with Executing Agency*, U.N. GAOR, 2d Sess., Agenda Item 7, U.N. Doc. SF/L.12/Add. 15/Rev. 1 (1959).

32. *Id.* ¶ 29. The articles of agreement addressed the following: Assistance to be provided by the Special Fund, Execution of Projects, Information Concerning Project, Co-operation of Government in Execution of Project, Local Facilities to be Provided by the Government to the Special Fund and the Executing Agency, Relation to Assistance from other Sources, Use of Assistance, Facilities- Privileges and Immunities, Settlements of Disputes, and General Provisions. See, e.g., *Draft Standard Agreement with Governments*, U.N. GAOR, 2d Sess., U.N. Doc. SF/L.12/Add.14/ Rev.1 (1959).

33. U.N. GAOR, U.N. Doc. SF/L.28 ¶ 30 (1959). The agreement included articles on the following: Performance of Work by Executing Agency, Conclusion of Agreement with Governments, Executing Agency Status in Carrying out Projects, Information Regarding projects, Cost of Projects, Manner of Payment, Records-Accounts-Vouchers, Expenses of Preparation, Currency and Rates of Exchange, Revision of Financial Arrangements, Immunities of Subcontractor, and General Provisions. See, e.g., SF/L.12/Add.15/ Rev.1, "Draft Standard Agreement with Executing Agency."



when evaluating project requests and to use the services available within the Expanded Programme, moreover such Agencies along with the UN and IAEA were responsible for the execution of the projects.

In addition to the two aforementioned sets of agreements which constituted the basic legal framework for co-operation, a Plan of Operation was signed by the three parties concerned, for each individual project. A typical Plan of Operation, as a tripartite agreement between the Government, the Special Fund and the Executing Agency concerned, contained a description of the project, a detailed work plan for its execution including particulars concerning experts, fellowships and equipment to be provided, a timetable showing sequence of operation, and a detailed budget of the costs to be borne by the government and the Special Fund.<sup>34</sup> Today, the Plan of Operation is known as the programme support or project document.

The other salient features of the Fund were that projects were to be undertaken only at the request of a Government or group of Governments (as with the Expanded Programme); the execution of projects was to be carried out by the United Nations, by the Specialized Agencies and the IAEA; and the Managing Director was authorized to contract services of “other agencies, private firms or individual experts” where the services of the executing agencies were “wholly or partly unavailable or inadequate.”

### C. *The Consolidation of the Expanded Programme of Technical Assistance and the Special Fund into the United Nations Development Programme*

UNDP was established by General Assembly resolution 2029(XX) of 22 November 1965 by merging the Expanded Programme of Technical Assistance and the Special Fund, on the understanding that the special characteristics and operations of the two programmes, as well as two separate funds, were to be maintained and that contributions would be pledged to the two programmes separately.<sup>35</sup> The justifications for the merger were to, *inter alia*, streamline the activities of the two programmes and provide a “more solid basis for the future growth and evolution” of UN assistance programmes.<sup>36</sup>

A single inter-governmental committee of thirty-seven members known as the Governing Council of UNDP was established to perform the functions previously exercised by the Governing Council of the Special Fund and the TAC, including the consideration and approval of projects and programmes and allocation of funds. In addition, the Governing Council was to provide general policy guidance and direction for the United Nations Development Programme

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34. U.N. GAOR, 4th Sess., Supp. No. 28-29, at 15 ¶ 31, U.N. Doc. SF/L.28 (1960).

35. G.A. Res.2029, U.N. GAOR, 220th Sess., Supp. Nos. 1,4,6, at 20, U.N. Doc. A/5748 (1965).

36. *Id.* at pmb1.

as a whole, as well as for the United Nations regular programmes of technical assistance.<sup>37</sup>

In place of the TAB of the Expanded Programme and the Consultative Board of the Special Fund, an advisory committee known as the Inter-Agency Consultative Board of UNDP was established. The Board was to meet under the chairmanship of the Administrator or Co-Administrator and was to include the Secretary-General of the United Nations and the executive heads of the specialized agencies and of the International Atomic Energy Agency or their representatives. The Board was to be consulted on all significant aspects of the United Nations Development Programme, in particular, on the programmes and projects submitted by governments prior to their submission to the Governing Council, the selection of agencies for the execution of specific projects, and the appointment of the Resident Representative.<sup>38</sup>

In 1969, a few years following the consolidation of the Expanded Programme and the Special Fund, the United Nations commissioned a Study on the Capacity of the United Nations Development System.<sup>39</sup> The purpose of the Study was to assess the capacity of the United Nations system to effectively use UNDP's resources and its capacity to handle a programme double the operations at that time.<sup>40</sup> The Study critiqued the problems experienced in the UN development system, in quantitative and qualitative terms, and made recommendations for the future.

With respect to the qualitative aspects of UN development programmes relevant to the present paper, the Study pointed out that a donor bias existed whereby initiative came from specialized agencies and not from the country itself, that there was a failure to recognize the need for a comprehensive approach to development problems and insufficient emphasis on training.<sup>41</sup> The Study further noted that development projects resulted from the "salesmanship" of specialized agencies rather than the priority needs of recipient governments, that specialized agencies had heavy operational burdens which resulted in delays in programme delivery as well as a decline in quality.<sup>42</sup> Included in the Study's recommendations to address the problems was the need to broaden the concept of development to take into account the changing political, economic and social conditions, noting that international development is made up of individual national goals and reaffirming the country approach to

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37. *Id.* ¶ 4.

38. *Id.* ¶ 6.

39. *A Study of the Capacity of the United Nations Development System*, G.A. Res. 2029, U.N. GAOR., 20th Sess., Supp. Nos. 1, 4, 6, at 20, U.N. Doc. DP/5 (1969).

40. *Id.* ¶ 1.

41. *Id.* ¶ 21.

42. *Id.* ¶ 23 (a)-(b).

development.<sup>43</sup> With respect to the specialized agencies, the Study recommended that, in cases where specialized agencies were over-burdened, projects should be contracted outside the system, noting that the legislative authority already existed, whereby the Administrator could specify that an Agency subcontract on his behalf when assigning a project to it for execution.<sup>44</sup>

Following the recommendations contained in the Study, the General Assembly adopted resolution 2688(XXV) of 11 December 1970, which sets out UNDP's methods of operation, excluding the subsequent changes relating, inter alia, to national execution discussed below.<sup>45</sup> In accordance with this resolution, distinctions between the Technical Assistance and Special Fund components have been eliminated.<sup>46</sup> UNDP was to operate under the "United Nations Development Co-Operation Cycle, which included the following phases: country programme formulation, project formulation, appraisal and approval, implementation, evaluation and follow-up."<sup>47</sup> The Cycle also included periodic reviews.<sup>48</sup>

Pursuant to resolution 2688, country programming, the first phase of the Cycle, is based on individual national development plans, or where they do not exist, on national development priorities or objectives. The Government of the country concerned retains the exclusive responsibility for formulating its national development plan.<sup>49</sup> The total resources available for programming is divided between country programming on the one hand and inter-country programming (consisting of sub-regional, regional, interregional, and global projects) on the other.<sup>50</sup>

The implementation of UNDP assistance is overseen by the Governing Council and the Administrator. The Governing Council is empowered to approve projects submitted by programmes for consideration. However, the Governing Council while retaining this authority, delegates to the Administrator

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43. *Id.* ¶ 34.

44. G.A. Res. 2029, *supra* note 39, at 20.

45. Other significant changes since the Consensus relate to the introduction of the programming approach which seeks to integrate projects into a coordinated programme or programmes within the country *The Program Approach*, U.N. Doc.E/1993/73, Annex III; U.N. Doc. E/1995/98, ¶ 69 and the shift from the use of the Indicative Planning Figure (IPF) for the allocation of programme resources which was essentially guaranteed funding for the country programme to TRAC resources which is based on the premise that governments get only a percentage of designated funding and that the remainder is contingent upon minimum performance indicators (cite).

46. *See* G.A. Res. 2029, *supra* note 39.

47. G.A. Res. 2688, U.N. GAOR, 25th Sess., annex, ¶ 1, 2, 4, 7, 11, at 50-59, U.N. Doc. E/4884/Rev.1 (1970).

48. *Id.* ¶ 1.

49. *Id.* ¶¶ 4-5.

50. *Id.* ¶ 24. Recent developments in the area of the country program, country cooperation framework, program cycle, and program resources can be found.

for three years the authority to approve projects within country programmes.<sup>51</sup> The Governing Council has over-all responsibility for ensuring that the resources of the Programme are employed with maximum efficiency and effectiveness in assisting the development of the developing countries.<sup>52</sup> In particular, the Council's responsibilities includes: considering and approving country programmes, approving certain projects included in the programmes, exercising operational control (including periodic reviews of the country programmes), and making broad allocations of resources and control their use.<sup>53</sup>

In addition to the responsibilities delegated to him by the Governing Council, the Administrator is fully responsible and accountable to the Governing Council for all phases and aspects of the implementation of the Programme.<sup>54</sup> The application of the twin principle of the Administrator's full accountability for the Programme and the decentralization to the country level envisaged in General Assembly resolution 2688 required modifications in the existing structures and procedures of the Programme. At the headquarters level, regional bureaus were established to provide a direct link between the Administrator and the resident representative in all matters concerning field activities.<sup>55</sup> In addition, in order to analyze the main trends in the evolution of the Programme, a small long-term planning staff was established at the headquarters level under the direction of a senior official.<sup>56</sup> In addition, at the country level, the resident representative was re-designated resident director.<sup>57</sup> There was the maximum possible delegation of authority to the resident director; he was to have full over-all responsibility for the programme in the country concerned.<sup>58</sup>

Thus, under General Assembly resolution 2688, the role of the specialized agencies in the provision of development assistance is preserved. The resolution stipulates that the role of such Agencies is to be that of partners and their advice available to the Administrator in the implementation of all projects, whether executed by them or not.<sup>59</sup> The resolution further stipulates that such Agencies shall have first consideration as executing agents for the implementation of the programme assistance.<sup>60</sup>

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51. *Id.* ¶ 20.

52. G.A. Res. 2688, *supra* note 50, at 35.

53. *Id.* ¶ 36.

54. *Id.* ¶ 37.

55. *Id.* ¶ 57.

56. *Id.* ¶ 58.

57. G.A. Res. 2688, *supra* note 50, at 62.

58. *Id.* ¶ 63.

59. *Id.* ¶ 38.

60. *Id.* ¶¶ 39-40.

Following the consolidation of UNDP, the Administrator commenced preparation of a new standard agreement with a view to reflecting the “unitary concept” of UNDP and to incorporating certain provisions from the project documents in order to simplify negotiations with the recipient countries on such project documents.<sup>61</sup> Today, over 130 governments have signed the new basic agreement, referred to as the SBAA. It continues to be the basic agreement between UNDP and programme country governments that sets out the terms and conditions of UNDP’s support to such countries.

### III. SECTION TWO

#### A. *The Transition to Government Execution*

Throughout the period up to 1974, development theory, policy and practice remained largely unchanged. The persistence of under-development was explained by the lack of technical skills, shortage of managerial capacity and dearth of capital.<sup>62</sup> The injection of technical assistance and capital from more advanced countries was the logical solution.

However, by the Second United Nations Development Decade developing countries expressed the desire for a new international economic order, in part a manifestation of the declining validity of the traditional approach to development. The General Assembly adopted the International Strategy for the Decade on October 24, 1970, wherein the General Assembly confirmed that the ultimate objective of development must be to bring about sustained improvement in the well-being of the individual and bestow benefits on all.<sup>63</sup> By 1974, the General Assembly had proclaimed a “New International Economic Order,” declaring that the greatest achievement during the last decades had been the independence from colonial domination and that the present international economic order was in direct conflict with developments in international political and economic relations.<sup>64</sup> The General Assembly further declared that changes in the international economy necessitated full and equal participation of developing countries in all decisions concerning the international community.<sup>65</sup>

These dramatic changes in the international economic order forced UNDP to consider new dimensions in technical cooperation. UNDP recognized that the increased emphasis placed on self-reliance by developing countries required

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61. *Report of the Administrator on the Standard Agreement With Governments: Note by the Administrator*, G.A. (Res. 2688., U.N. GAOR, 16th Sess., Item no. 6, U.N. Doc. DP/86, ¶ 6 (1974).

62. Harrod/Dumas Growth Model.

63. G.A. Res. 2626, U.N. GAOR, Item no. 42, U.N. Doc. A/8124IDS (1970).

64. G.A. Res. 3201, U.N. GAOR, 6th Sess., Item no. 7, U.N. Doc. A/9548 (1974).

65. *Id.* ¶¶ 1-3.

a re-thinking of the automatic dependence on external inputs in technical assistance.<sup>66</sup> It is against this backdrop that UNDP declared for the first time that governments and institutions in recipient countries should be increasingly entrusted with the responsibility for executing UNDP projects.<sup>67</sup> This view was supported by a group of experts selected by the Secretary-General, at the request of the General Assembly in resolution 3343 (XXIX) of December 17, 1974, to recommend proposals on structural changes within the United Nations system to ensure that it is fully capable of dealing with problems of international economic cooperation in a comprehensive manner. In this respect, the experts recommended that responsibility for execution of projects need not be automatically assigned to specialized agencies but that it could be entrusted to, *inter alia*, "the recipient Government itself; institutions in the recipient country; appropriate consultants, universities, contracting agencies or firms, etc., institutions of other developed or developing countries."<sup>68</sup>

Consistent with UNDP's consideration of new dimensions in technical cooperation, and the recommendations of the group of experts convened by the General Assembly, in June and November 1975, the Governing Council and the General Assembly decided that "Governments and institutions" in programme countries should be increasingly entrusted with the "responsibility for executing projects" assisted by UNDP.<sup>69</sup> The decision by the Governing Council and the General Assembly constituted the first major legal step towards government execution and represents a significant progression from General Assembly resolution 2688 which gave first consideration for the execution of projects to organizations of the United Nations system.<sup>70</sup>

Shortly after the adoption of resolution 3405 by the General Assembly, the UNDP Administrator issued guidelines on the execution of UNDP-assisted projects by governments and institutions of developing countries.<sup>71</sup> In the

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66. *Report of the Administrator on the Future Role of UNDP in World Development in the Context of the Preparations for the Seventh Special Session of the General Assembly*, U.N. GAOR., 20th Sess., Agenda Item 3 (c), U.N. Doc. UNDP DP/114 (1975).

67. *Id.* ¶ 53.

68. *Report of the Group of Experts on the Structure of the United Nations System*, U.N. GAOR, ¶ 150, U.N. Doc. E/AC.62/9 (1975).

69. *Decision of the Governing Council*, G.A. Res. 3405 (XXX), U.N. GAOR, 487th Mtg., Annex (e)(i,ii,vii) (1975).

70. G.A. Res. 2688, U.N. GAOR, 59th Sess., annex IX, at ¶¶ 40, 50, U.N. Doc. E/5703 (1975). Under resolution 2688, however, the Administrator was authorized to make use of "suitable services" from governmental and non-governmental institutions and firms, through competitive bidding. The provision of such services would be on the basis of a contract and are, thus, distinguished from execution which implied a larger role in the management of the project.

71. *Guidelines on the Execution of UNDP Assisted Projects by Governments and Institution of Developing Countries*, UNDP, U.N. Doc. UNDP/Prog/51 (1976); U.N. Doc. UNDP/Prog/Field/72; UNDP/Prog/Hqtrs/91 (1976) [hereinafter Guidelines].

introduction to the guidelines, the Administrator explained that government execution would constitute “an important aspect of the move towards decentralization, and a means of economizing on overheads, enhancing the capabilities of local expertise and institutions, and thereby promoting self-reliance.”<sup>72</sup> The Administrator further explained that government execution would strengthen the “indispensable role” of governments in their development, diversify the supply base for UNDP and facilitate the delivery of an expanding programme.<sup>73</sup> In accordance with the guidelines, governments were to nominate themselves or other national agencies, organizations or institutions as the “Government Executing Agency” with full responsibility for the preparation, implementation and follow-up of a project assisted by UNDP.<sup>74</sup> Thus, the new partnership with governments under this modality was to be that of a bipartite relationship between UNDP and the government.<sup>75</sup>

Upon request of a government to execute a project, UNDP would carry out an assessment of the government’s capacity to determine whether the proposed government executing agency had sufficient managerial and technical capability to fulfill its obligations as executing agency. In order to assess capacity, Governments were requested to provide information on:

- (a) the experience of the institution in executing similar projects, whether financed from domestic or external sources;
- (b) the depth of technical experience and know-how of the institution and its access to, and links with, national and international sources of expertise and know-how;
- (c) the ability of the institution to exercise adequate managerial and administrative supervision over the project; and
- (d) the internal budgetary, accounting and audit arrangements of the institution... [as well as] a copy of the financial rules and regulations of the institution.<sup>76</sup>

When UNDP determined that the government executing agency had sufficient capacity to execute the project, under the government execution guidelines, that entity would be responsible for carrying out the project as it would if it were a government project. Thus, the government executing agency would be responsible for the engagement of international and national project staff, who were responsible to the Government; the procurement, transport and installation of equipment under the rules and procedures of the government;

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72. *Id.* at 1.

73. *Id.*

74. *Id.* at 3.

75. *Id.* at 2.

76. *Guidelines, supra* note 71.

awarding of sub-contracts, which would be entered into directly between the government and sub-contractor; and placement of fellows in training institutions and carrying out other training activities.<sup>77</sup>

Although government execution was largely a bilateral arrangement between UNDP and the government, provision was made for the involvement of specialized agencies and other agencies of the UN system in all stages of the project cycle. However, the involvement of such agencies was subject to the specific request of the government and their role under government-executed projects was limited to providing technical and substantive backstopping and not the direct delivery of inputs, such as procurement.<sup>78</sup>

Following the issuance of the guidelines for execution of projects by governments and institutions, on July 2, 1976, the Governing Council began to restrict the Administrator's use of government execution by only authorizing him to initiate government execution projects on a "carefully selected basis pending submission of a detailed report to the Council . . . on the criteria, evaluation and administrative procedures and changes in the financial rules necessary for the implementation of that new dimension on a regular basis."<sup>79</sup> Thus, although the guidelines on government execution were issued in May of 1976 to field offices and participating/executing agencies, just two months following their issuance, the Governing Council in its decision 76/57 appeared to slow down the move towards government execution.

In 1978, the Joint Inspection Unit (JIU) prepared a report on the Role of Experts in Development Cooperation.<sup>80</sup> The 1978 Report included an assessment of the government execution modality. In particular, the Report noted that implementation problems arise in projects when there is a "failure to recognize government responsibility at the project identification and formulation stages."<sup>81</sup> The inspectors found that Governments which were not involved at the early stages of project formulation felt that the project activities did not relate to what they actually wanted and, consequently, expressed little sense of commitment towards the project.<sup>82</sup> The JIU recommended a "fresh

77. *Id.* ¶ 23.

78. *Id.* ¶¶ 49-51.

79. *Governing Council decision 76/57, ¶ (e) (1976).*

80. *Report on the Role of Experts in Development Co-Operation*, UNDP, at 47.1, U.N. Doc. JIU/REP/78/3 (1978). [hereinafter *Experts*]. In accordance with the Statute of the Joint Inspection Unit (JIU), approved by the General Assembly in resolution 31/192 of 22 December 1976, the JIU consists of not more than 11 inspectors chosen among members of national supervision or inspection bodies who serve in their personal capacity. The JIU is charged with the responsibility of investigating all matters bearing on the efficiency of the services and proper use of funds, including evaluation of programmes and activities. The inspectors may propose reforms or make recommendations which are contained in reports drawn up under their signature.

81. *Id.* ¶ 44.

82. *Id.*



approach” to government execution where each new project supported by UNDP would be under “full government management.”<sup>83</sup> Under the JIU proposal, although the government management authority would be exercised over all aspects of project implementation, the government could seek the cooperation of one or more of the agencies of the United Nations system in any aspect of project preparation or implementation, such as recruitment and procurement of international project components.<sup>84</sup>

In preparing the Report, the JIU sent questionnaires to governments, UNDP resident representatives and agencies to elicit views on the applicability and feasibility of government execution. An analysis of the responses showed that 4/5 of the 72 responding governments felt that government execution was appropriate for use in their countries, with half giving it a high priority ranking.<sup>85</sup> Resident Representatives and Agencies took a more conservative position than governments in assessing the suitability of government execution.<sup>86</sup> The JIU further found that many governments had gained experience in recruitment and procurement through implementation of their own development programmes and established systematized procedures and machinery for these purposes.<sup>87</sup> The JIU concluded, as follows:

Government project management is an essential step in the direction of self-reliant development, and it is equally imperative in order to clear up the existing uncertainty as to where the management authority for UNDP-assisted projects really lies. The present system not only divides responsibility and authority — thus contradicting one of the fundamental principles of good management by setting up dual chains of command — but it does so in a way which places actual decision-making powers in large measure beyond the reach of national authorities, who are nevertheless most vitally concerned. By the same token, the present system partly diverts the Agencies of the United Nations system from their proper preoccupation with the transmission of technical knowledge and skills, by involving them in numerous management and administrative tasks which should not be their primary concern. For all these reasons, the present system contributes to difficulties in project identification, planning and implementation in which there is insufficient government participation, and hence leads to large, if as yet unquantified, wastage in the use of both national and international resources. By accepting government management as standard procedures for the UNDP

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83. *Id.* ¶ 45.

84. *Id.*

85. *Experts, supra* note 80.

86. *Id.* at 48.

87. *Id.* at 52.

programme, an energetic start can be made towards rectifying this situation and reducing the inefficiencies and diseconomies which characterize it.<sup>88</sup>

The response of UNDP and the UN Agencies to the JIU Report was one of caution. In joint comments prepared by UNDP and the UN Agencies, they indicated that the proposals made by the JIU required the “most careful assessment” by the Council.<sup>89</sup>

Following the JIU report, new guidelines on government execution were issued on January 18, 1979.<sup>90</sup> The major difference in the 1979 procedures as compared to the 1976 procedures is the prominence of the role of the UN agencies. The 1976 procedures indicated that under government execution UNDP and the government would essentially have a bilateral relationship, with UN agencies providing technical support at the specific request of the government. In the 1979 procedures, however, the close association of the UN agencies with UNDP using the government execution modality is affirmed, as follows:

[Government execution] calls for constant awareness on the part of UNDP and Agencies of Governments' primary responsibility for all management aspects of projects, and careful judgement in each case of how to derive the greatest benefit from the technical experience and knowledge available with the organizations of the United Nations system. The interdependence of UNDP and the Agencies in their support of countries' development efforts and UNDP's reliance on Agencies' technical judgement in the planning and implementation of projects and in the assessment of their results call for constant and close cooperation in all aspects of government execution.<sup>91</sup>

Consistent with the maintenance of the role of the UN agencies under government execution, the 1979 procedures introduced the term “Cooperating Agency” whereby a UN agency could participate in project execution along with the Government agency concerned, to assist the government in the utilization of UNDP-financed inputs.<sup>92</sup> In addition, in Annex 1 to the procedures, government execution is defined as an “arrangement whereby

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88. *Id.* ¶ 54.

89. *Joint Comments of UNDP and the Organizations of the United Nations System on JIU's Report on the Role of Experts in Development Assistance*, UNDP, 25th Sess., Supp. nos. 16, 18, 20, U.N. Doc. DP/334/Add.2 (1978).

90. U.N. GAOR, U.N. Doc. UNDP/Prog/64; UNDP/Prog/HQTRS/116; UNDP/Prog/ Field/101 (1974).

91. *Id.* ¶ 2.

92. *Id.* ¶ 43.

UNDP entrusts to a government the responsibility for the mobilization of UNDP-financed inputs and their effective application, in combination with the government's own and other available resources, towards the project's objectives."<sup>93</sup> In accordance with the 1979 procedures, governments were invited to designate one central authority to represent the government in dealing with UNDP, however, the central authority did not have to be the same entity actually carrying out project activities.<sup>94</sup>

In his report to the Governing Council in DP/558 of March 12, 1981, the Administrator proposed a reversal of the cautious and selective approach to implementing government execution previously adopted by the Governing Council. While the debate on the Report reflected a range of views, with some member states fully endorsing the approach and others arguing for a continuation of the cautious approach, the Governing Council requested, in its decision 81/21, that the Administrator give "full consideration" to implementation of UNDP assistance by the host governments and that the Administrator, along with representatives of the UN agencies, should review and analyze in greater detail the reasons for the lack of progress in implementing government execution.<sup>95</sup>

In response to decision 81/21, the Administrator submitted a report to the Governing Council wherein he stated that the experience with government execution had generally been positive, with a "slow but steady" progress in its use.<sup>96</sup> Findings contained in the report indicated that most governments felt that, through government execution, they were closer to realizing self-reliance in their development efforts. Others felt that through assuming full responsibility in project design and implementation, the projects would be more likely to "respond to specific requirements determined by local norms, values and conditions."<sup>97</sup> However, the Report also noted that some governments preferred the traditional modality of providing assistance through the use of the UN agencies.<sup>98</sup> The Report concluded that while many governments saw the concept of government execution in a favourable light, they did not see immediate large-scale implementation of government execution.<sup>99</sup>

93. *Id.* Annex 1 ¶ 7.

94. *Id.* Annex 1 ¶ 9.

95. *Governing Council Decision*, U.N. GAOR, 734th mtg., U.N. Doc. 81/21. (1981).

96. *Report of the Administrator: Government Execution*, UNDP, 29th Sess. U.N. Doc. DP/1982/11 ¶ 8 (1982). For example, in 1976, two projects were under government execution for a total UNDP contribution of US \$1,630,230; by 1981, forty projects were under government execution for a total contribution of US \$12,298,538 See, e.g. DP/1982/11/Add.11 1982, ¶ 13.

97. *Id.* ¶ 13; (See e.g. U.N. GAOR, U.N. Doc. DP/1982/11/Add. 11, ¶ 13. (1982).

98. *Id.* ¶ 17.

99. *Id.* ¶¶ 20-21.

In April of 1987, the Administrator again reviewed the impact of government execution.<sup>100</sup> In his report to the Governing Council, the Administrator noted that since its inception, government execution had grown in importance and complexity. By the end of 1986, some 600 projects had been executed by governments for a total of US \$150 million.<sup>101</sup> The Asia and Pacific region utilized the government execution modality more than any other region, with China executing the highest number (40) of projects.<sup>102</sup> At the end of 1986, the four sectors with the largest number of government executed projects were general development issues, policy and planning; agriculture, forestry and fisheries; natural resources; and industry.<sup>103</sup>

With respect to the impact of government execution, the Administrator indicated that an evaluation exercise was underway to make detailed assessments of the successes and failures of government execution. The Administrator further explained that preliminary replies from Resident Representatives indicated that a high proportion of the government executed projects appeared successful.<sup>104</sup> However, the Administrator pointed out that some problems had been experienced with government execution, including low rates of delivery.<sup>105</sup> The reasons for the low delivery were being investigated but it appeared that it was related to delays in recruiting experts and slow reporting.<sup>106</sup> In addition, the Administrator indicated that cost-effectiveness was to be measured by the evaluation exercise underway. It was noted in this respect that the UNDP field offices and headquarters had expended considerable resources in supporting government execution, largely in the area of administrative and financial/accounting support. The reason for this was not the inability of governments to carry out administrative, financial and accounting procedures but was due to the difficulty in getting governments to comply with extraneous administrative and accounting procedures for projects which were considered relatively small in relation to governmental budgets.<sup>107</sup> The Administrator concluded that the general assessment of government execution was that much progress had been made.<sup>108</sup> The detailed

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100. *Report of the Administrator: Government execution*, U.N. GAOR, U.N. Doc. DP/1987/16 (1987). [hereinafter *Administrator*].

101. *Id.* ¶ 45.

102. *Id.* ¶ 46-47.

103. *Id.* ¶ 48.

104. *Id.* ¶ 52.

105. For example, in 1981, the total programme delivery rate was 77.6%, but only 61.6% for government executed projects; in 1985, the total programme delivery rate was 69.1%, but only 50.1% for government executed projects. *Administrator, supra* note 100, at ¶ 57.

106. *Id.* ¶ 58.

107. *Id.* ¶ 63, 68.

108. *Id.* ¶ 79.

evaluation was submitted to the Governing Council on 4 March 1988.<sup>109</sup> The response of the Governing Council was positive, with the Council, in its decision 88/18, encouraging Governments to "continue the expansion of government execution."<sup>110</sup>

By 1989, it was felt by UNDP that a new agreement was needed with governments entrusted with the execution of UNDP projects. The SBAA was prepared on the basis of the tripartite approach, whereby UNDP executing agencies would carry out the project activities. As such, the SBAA did not envision execution by governments. Thus, in order to set out the legal framework of government execution, the roles and responsibilities of the parties, and to address certain problems that had arisen in the past with respect to government execution relating, *inter alia*, to the lack of a central coordinating authority representing the government and to the increased involvement of field offices in carrying out project activities on behalf of governments, a new Government Execution Agreement was prepared.<sup>111</sup> Pursuant to that agreement, a central governmental authority would be charged to coordinate the projects executed by the Government and to select the entity to carry out the actual execution of the project. In cases where the Government could not perform the full range of activities, provision was made for a UNDP Executing Agency to act as a cooperating agency to assist the Government in carrying out project activities. Finally, the agreement charged the Government to be accountable to the Administrator for the proper utilization of the project funds and implementation of project activities. Thus, the Governments were to submit audited financial reports and accurate technical progress reports. Unfortunately, for reasons that are not entirely clear, this agreement was never used by UNDP. The government execution arrangements continued to be carried out under the SBAA, with modest adjustments to the project document to address some of the new financial and administrative details required under government execution.<sup>112</sup>

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109. *Governing Council*, UNDP, 36th Sess., at 57, U.N. Doc. DP/1988/19/A.2 (1988).

110. *Governing Council Decision*, UNDP, 35th Sess. ¶ 1, at 56, Doc. DP/1988/12/A..2 (1988).

111. Memorandum from Mr. Francis Ssekandi, Deputy Director, General Legal Division, to Mr. Douglas Stafford, Deputy Assistant Administrator, Bureau for Finance and Administration, UNDP, dated October 26, 1989.

112. There may have been concern that governments would not sign the new agreement and that it would be easier to continue using the SBAA, with the modifications on the project document. In this respect, three annexes were developed to attach to the project documents to address the new financial and administrative arrangements under government execution. *See, e.g.*, UNDP PPM, Section 3490 et al on Government Execution.

## B. National Execution

By 1990, the term “government execution” was replaced with “national execution” to better reflect the variety of ways in which projects are implemented.<sup>113</sup> At the same time, UNDP began referring to national execution as the “ultimate modality” for activities supported by UNDP.<sup>114</sup> UNDP defined national execution, as follows:

National execution is a cooperative operational arrangement whereby the Government assumes responsibility for the effective management of all aspects of its UNDP-financed technical assistance projects and programmes as requested by it and agreed to by the United Nations Development Programme (UNDP). National execution recognizes the wide range of technical support possibilities, and encourages implementation arrangements that draw upon outside technical expertise and in particular, the specialized agencies of the United Nations. Under national execution, Governments are responsible for the conduct of all project and programme activities including those implemented by the specialized agencies of the United Nations, the Office of Personnel Services (OPS) of UNDP, or other organizations or institutions on their behalf. Governments are accountable to the Administrator of UNDP for ensuring the most appropriate implementation arrangements, the quality of technical cooperation funded by UNDP and its judicious financial management.<sup>115</sup>

With respect to the role of the specialized agencies in national execution, UNDP saw the effective use and association of the specialized agencies as a major challenge.<sup>116</sup> In this respect, the Administrator pointed out in its report to the Governing Council that the specialized agencies had been used only to a very limited extent in national execution. One reason for this trend suggested by the Administrator is the appearance of new implementation agents on the international development scene — non governmental organizations, private sector firms and national institutions.<sup>117</sup> Notwithstanding the limited involvement of specialized agencies and the appearance of new actors in the

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113. *Report of the Administrator*, U.N. GAOR, U.N. Doc. DP/1990/33 ¶ 7 (1990).

114. *Id.* ¶ 3.

115. *Id.* ¶ 8. The Governing Council of UNDP took note of the Administrator’s report containing the proposed definition of national execution (*Governing Council decision 90/21* ¶ 1 (1990)).

116. *Report of the Administrator to the Governing Council*, U.N. GAOR, U.N. Doc. DP/1991/23 ¶ 36. (1991).

117. *Id.* ¶ 37.

development area, the Administrator concluded that there is still a “significant continuing role for United Nations specialized agencies.”<sup>118</sup>

At the request of the Governing Council, UNDP issued guidelines for field offices on national execution in 1992, which defined key terminology such as execution and implementation and the roles of the Government, specialized agencies and UNDP in national execution. However, in 1993, the General Assembly, in resolution 47/199, while affirming that national execution should be the “norm for programmes and projects supported by the UN system, taking into account the needs and capacities of recipient countries,” again requested that the United Nations development system agree on a common interpretation of national execution. Thus, the Consultative Committee on Programme and Operational Questions (CCPOQ), under the authority of the Secretary-General, agreed that national execution is a “cooperative operational arrangement entailing, *inter alia*, overall responsibility for the formulation and management of programmes and projects by the recipient country, as well as the recipient country’s assumption of accountability for them.”<sup>119</sup> The CCPOQ also agreed on the objectives and guiding principles for national execution, including, *inter alia*, the recognition of the central role, ownership, direction and control of the Government, and the enhancement of capacity building, self-reliance and sustainability.<sup>120</sup>

Thus, by 1993, after almost 20 years since the first legislation on government execution, the General Assembly had endorsed national execution as the norm for the provision of development assistance by the United Nations development system, with UNDP at the center of that system. Through this progression to national execution, UNDP attempted to adapt itself to respond to the needs of programme country governments and their desire to be in charge of their national development programmes. UNDP’s willingness to make national execution the norm was a recognition of the fact that empowerment of and control by national governments was the only way to lead to real impact and results.

#### IV. SECTION THREE

##### A. *Initial Assessment of National Execution*

In 1995, a team of experts carried out an independent evaluation of national execution, publishing an abridged and edited by UNDP under the title

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118. *Id.*

119. *National Execution and Implementation Arrangements*, U.N. GAOR, U.N. Doc. E/1993/73, Annex 4, at 44 (1993).

120. *Id.*

“National Execution: Promise and Challenges.”<sup>121</sup> The evaluation is based on a field study of 11 countries, Chile, China, Burkina Faso, Egypt, Ethiopia, Malawi, Nicaragua, Peru, Sri Lanka, Thailand and Zimbabwe.

The study noted that 75% of all UNDP projects were carried out through national execution.<sup>122</sup> The evaluators found that national execution had both positive and negative attributes. On the positive side, national execution 1) improved and expanded the sense of ownership of programmes; 2) increased self-reliance; 3) contributed to capacity building; and 4) increased cost-effectiveness. On the negative side, national execution has led to 1) delays in implementation due to the participatory nature of the modality; and 2) weak public sector institutions have necessitated short-term compromises such as national execution support units and parallel salary scales which jeopardize the long-term objective of institutional capacity building. In this respect, the study noted that in Latin America, national execution was used to bypass normal government institutions to ensure that programme activities are completed on time and to ensure that the funds are properly utilized.<sup>123</sup>

The study was inconclusive on the cost-effectiveness of national execution. An analysis of project budgets showed a modest decline in the number of work months assigned to international personnel, with a large increase in work months delivered by national personnel.<sup>124</sup> However, evidence did not show that greater use of national personnel affected performance, either positively or negatively. Moreover, a full analysis of cost-effectiveness would have to take into account costs related to the increased workload of UNDP country offices.

The study was inconclusive on whether national execution led to increased sustainability of programmes and projects. The evaluators noted that national execution should lead to increased sustainability because the programmes are more fully integrated into national structures, the greater use of national personnel reduces technical discontinuity at the completion of projects, and the sense of ownership enhances the possibility that governments will continue supporting project activities in the future.<sup>125</sup>

The evaluators noted that the tripartite relationship among UNDP, governments and specialized agencies no longer applies in its traditional form as governments increasingly assume functions relating to ownership, oversight, execution and implementation while the role of the specialized agencies is to provide technical support. Thus, the evaluators recommended the adoption of

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121. The team consisted of the following experts: Mr. Fuat Andic, Richard Huntington, and Ralf Maurer with support from Mr. Abdenour Benbouali.

122. NATIONAL EXECUTION: PROMISES AND CHALLENGES, 7 (Z. Jamal ed., 1995).

123. *Id.* at 24.

124. *Id.* at 25.

125. *Id.* at 27-28.



a new conceptual framework for national execution with more clearly defined roles for UNDP, Government, and Specialized Agencies. The new model suggested by the evaluators envisages UNDP and Government as partners who would select a management team which would normally be a national entity but could be a specialized agency if agreed by the partners that using such an agency was the optimal way to proceed.<sup>126</sup>

In addition to the 1995 evaluation, national execution has been regularly reviewed internally by the Board of Auditors. Recommendations of the Board of Auditors on the 1994-95 biennium included that UNDP should re-emphasize the need to assess the Government's capacity to undertake national execution; the objectives of national execution should be clearly defined to provide closer link to UNDP's aims; and that UNDP should issue new guidance on national execution to reflect all relevant legislation.<sup>127</sup>

In order to address some of the issues raised in the 1995 evaluation of national execution and periodic comments of the Board of Auditors, UNDP revised the procedures for national execution which were finalized following guidance from the UNDP Executive Board in 1998. The procedures define national execution, consistent with the definition used by the CCPOQ in 1993, as a "cooperative operational arrangement entailing, among other things, overall responsibility and assumption of accountability of the formulation and management by the programme country of UNDP supported programmes and projects." The key principles of national execution are the use of government rules and procedures where they are consistent with internationally recognized practices, government accountability for effective use of UNDP resources and adherence to UNDP rules and regulations when the UNDP country office provides services.

The procedures stipulate that national execution is based on an expression of government's interest and willingness to assume management responsibilities for the programme or project as well as national capacities. The procedures set out key considerations for execution to guide country offices in determining where national capacities need to be strengthened. Such considerations fall within the areas of technical, managerial, administrative and financial capacity of the national entity.

The procedures describe the roles of the various actors in nationally-executed programmes and projects. The Government Coordinating Authority, the focal point for all communications with UNDP, assumes ultimate responsibility for the overall management of the programme or project on behalf of the Government. The Government Coordinating Authority in

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126. *Id.* at 9.

127. *Report of the Board of Auditors*, U.N. GAOR, 51st Sess., Supp. No. 5A, U.N. Doc. A/51/5/Add.1 (1995).

consultation with UNDP designates the national entity which will serve as the executing agent primarily responsible for the planning and overall management of programme and project activities, reporting, accounting, monitoring and evaluation, and audit. The executing agent can be a Ministry, a department within a ministry; any other national entity, such as a central bank, a university, regional and local authorities and municipalities. The implementing agent, which provides services or carries out activities under the supervision of the executing agent, including procurement activities, can be the executing agent itself, another government entity, a United Nations executing agency (i.e. a specialized agency or other UN entities authorized to execute projects) or an outside entity such as an NGO, a private company, a consulting firm or a university. In addition to acting in the capacity of an implementing agent, the procedures specify that UN agencies can provide support to policy and programme development (policy for the formulation of strategies and programmes, advisory services and sectoral advice, technical assistance needs assessment, sectoral or multi-disciplinary studies) as well as technical support at all stages of the programme or project cycle (formulation and appraisal, technical support and monitoring of activities during implementation, evaluation).

The procedures provide that in addition to the assistance that UNDP normally provides to UNDP-supported programmes and projects, the UNDP country office may provide further support to the executing and implementing agents including assistance with UNDP reporting requirements and making direct payments.

One of the most important sections of the new procedures deals with the provision of support services, including recruitment of personnel, facilitation of training activities, procurement of goods and services, by the country office. UNDP sought confirmation of its mandate from the Executive Board to provide such services, which some delegations argued were tantamount to direct execution, outside UNDP's mandate. In a hotly debated session of the Executive Board in January 1998, the Executive Board reaffirmed UNDP's mandate to provide support services under the following conditions, which are reflected in the national execution procedures: the services can only be provided at the request of the Government and for activities within the country cooperation framework; the services must be in support of the implementation of activities described in the annex to the programme support or project document; the support must be provided based on a capacity assessment and be accompanied by capacity building measures including an exit strategy to ensure that long-term capacity building objectives are not jeopardized; and the nature of the support will take into account services which can be provided by other

UN agencies.<sup>128</sup> In order to placate those delegations which were concerned that country office support services were in fact direct execution, namely Germany, France, Belgium, Switzerland (only an observer), the Executive Board also specified that direct execution activities of UNDP should be limited to countries in special circumstances and apply only when it is “essential to safeguard the full responsibility and accountability of the Administrator for the effective programme and project delivery.”<sup>129</sup>

The procedures also stipulate that the costs of providing such services by the country office must be detailed in the annex to the programme support or project document and recovered by UNDP.

In addition to direct country office support, the procedures describe support services provided by management support units, which carry out administrative work such as procurement, payment, contracting as well as reporting, programme management training and capacity building activities. The procedures stipulate that such units can only be supported or funded by UNDP when UNDP has assessed sustainability, cost-effectiveness, and capacity building. Clear responsibilities must be assigned to the unit and described in the programme support or project document. The support provided by such units is supposed to be temporary, clearly defined and accompanied by capacity building measures. The unit is supposed to function within a government structure and under government supervision. Finally, UNDP cannot employ or remunerate civil servants working within such a unit and such units cannot be established with the UNDP country office.

The procedures also give detailed guidance on monitoring and evaluation, financial management and reporting and audit requirements.

With respect to the legal framework for national execution, UNDP has not pursued the conclusion of the government execution agreement prepared in 1989. Instead, the national execution procedures provide for the conclusion of a letter agreement with governments to address the support services provided by UNDP field offices. The agreement extends the privileges and immunities accorded to UNDP under the SBAA to the support services provided by UNDP field offices under national execution. Thus, the SBAA continues to set out the basic conditions of UNDP’s support to programme country governments. Under that overall agreement, the details concerning national execution are reflected in annexes to the project documents and in the letter agreements on support services provided by the UNDP field offices.

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128. U.N. GAOR, U.N. Doc. U.N. Doc. DP/1998/2, dec. 98/2 (1998).

129. *Id.* ¶ 8(g).

**B. *The Future Direction of UNDP and National Execution***

After 23 years, national execution is now legally and actually the preferred modality for the execution of UNDP programmes and projects. During the 23 years leading up to the 1998 national execution procedures, the tension between giving responsibility to the Governments and taking such responsibility away from specialized agencies is evident. Clearly, the donors and member states of such agencies have been aware of the impact that national execution would have on the involvement of such agencies in UNDP programmes and projects—that the role of specialized agencies would be marginalized and their use in such programmes and projects reduced.

What has also become clear in the transition to national execution is that as the role of the specialized agencies has become less significant, the role of the UNDP country office has become more prominent. With the 1998 decision of the UNDP Executive Board, the country office role in providing support services has been reaffirmed. These activities, which include procurement and recruitment, are activities formally provided by specialized agencies. Under national execution, these activities should in principle be carried out by the national entities responsible for the programmes and projects. Thus, the role of the country office in national execution will have to be monitored carefully to ensure that governments are empowered to manage and carry out all aspects of the programmes and projects, including the procurement and recruitment activities. The true challenge to UNDP, if it is sincerely committed to the capacity building of national institutions and the development of programme countries is not to allow national execution to become in effect direct execution by the UNDP country office. There is already evidence of UNDP country offices assuming far too large a role in national execution, notably in Latin America. Thus, the international community, donor and programme countries will have to watch and see if UNDP stays true to its mandate, in the hope that UNDP will meet one of its biggest challenges of the twenty-first century.