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REPORT OF COMMISSION III

SOCIAL SCIENCES, HUMANITIES AND CULTURE

INTRODUCTION

Detailed consideration of Chapter 3 (Social Sciences, Humanities and Culture) of the Draft Programme and Budget for 1975-1976

GENERAL DEBATE

SUB-CHAPTER 3.1 - PHILOSOPHY AND INTERDISCIPLINARY CO-OPERATION

SUB-CHAPTER 3.2 - SOCIAL SCIENCES

- Section 3.21: Development of the social sciences
- Section 3.22: Social science methods and analysis
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SUB-CHAPTER 3.4 - CULTURAL HERITAGE

- Section 3.41: Preservation and presentation of monuments and sites
- Section 3.42: Development of museums; establishment and application of international standards concerning the cultural heritage
- Item 28: Desirability of adopting an international instrument on the exchange of original objects and specimens among institutions in different countries.

the scientific and the commercial aspects of the issue. He was in favour of the international instrument on the exchange of cultural objects because he was for legitimate ways of restitution. Another delegate had reservations on the draft resolution because it seemed to imply that all objects should go back to their countries of origin; it might be desirable to have national cultures well-represented abroad to enable other peoples to see and understand the art and culture of foreign countries.

327. The delegate of Canada expressed considerable sympathy with the draft resolution and proposed orally to add the word "illicit" before the word "traffic" in the last but one paragraph and to delete the term "just" in paragraph 12, since these amendments could make the resolution more widely acceptable.

328. The Assistant Director-General for Social Sciences, Humanities and Culture in his reply underlined the high quality of the discussion, during which a very large degree of basic sympathy had been expressed with the spirit behind the draft resolution.

329. The delegate of Senegal, on behalf of the sponsors, accepted the amendments proposed by the delegate of Canada and the Commission recommended by 55 votes to none, with 15 abstentions, that the General Conference adopt draft resolution 18 C/SHC/DR.1 as amended.

Item 61 - Implementation of the resolutions of the General Conference and decisions of the Executive Board concerning the protection of cultural property in Jerusalem: Report of the Director-General

330. Document 18 C/106, entitled "Implementation of the resolutions of the General Conference and decisions of the Executive Board concerning the protection of cultural property in Jerusalem", was introduced by the Deputy Director-General in the absence of the Director-General, who was indisposed.

331. The Commission was informed that since the 94th session of the Executive Board (May-June 1974) the representative of the Director-General for Jerusalem, Professor Lemaire, had gone to Jerusalem in September 1974. It was explained that, in accordance with the Director-General's statement to the Executive Board at its 94th session, document 18 C/106 contained only a brief report, purely factual, on certain resolutions adopted or decisions taken by the General Conference or the Executive Board concerning the protection of cultural property in Jerusalem and that the Director-General reserved the right, as soon as circumstances permitted, to make a personal declaration on the subject.

332. The Commission had before it a "memorandum" (document 18 C/INF.15) submitted by 12 Member States on the "implementation of the resolutions of the General Conference and the decisions of the Executive Board concerning the protection of cultural property in Jerusalem" and a draft resolution (18 C/SHC/DR.2) presented by 34 Member States.

333. One delegate informed the Commission that in order not to prolong the discussion some of the co-authors of 18 C/SHC/DR.2 had arranged for one delegation to present the document and four other delegations subsequently to put before the Commission: (a) the historical and social aspects and the alterations by which Israel has changed the features of the city of Jerusalem; (b) the legal aspects; (c) the political aspects and (d) the religious and spiritual aspects of the problem of cultural property in Jerusalem. He also informed them that 13 other Member States had joined the 34 co-authors of 18 C/SHC/DR.2.

334. Reference was made to the various resolutions adopted by the United Nations General Assembly or the General Conference of Unesco and the numerous decisions of the Executive Board concerning the protection of cultural property in Jerusalem by the delegate who presented the draft resolution and also by many other delegates. The delegate of Iraq proposed adding the following sentence to the end of paragraph 7 of the draft resolution (on Jerusalem): "They also asserted that Israel was not complying with these resolutions and persisted in violating them".

335. Throughout the discussion, whatever position they adopted, speakers constantly and generally alluded to the unique character of the city and site of Jerusalem. The historic buildings situated in it were representative of the various civilizations that had succeeded each other there. They were especially valuable inasmuch as they were related to great and noble beliefs widely spread throughout the world. More than any others, they belonged to the cultural heritage of mankind.

336. The part which Unesco, with its universal character, should play in the protection of cultural property and which was entrusted to it by its Constitution was recognized by all delegates. Almost all of those who spoke said that the Organization had to be actually present in Jerusalem if it was to play that part.

337. When draft resolution 18 C/SHC/DR.2 was introduced, it was emphasized that since no action had been taken on the previous resolutions and decisions, it devolved upon the General Conference to take effective measures to implement those resolutions and decisions by adopting the three paragraphs of the operative part of 18 C/SHC/DR.2, those paragraphs being complementary and constituting a whole. The measures taken could be reconsidered as soon as Israel had complied with these resolutions and decisions.

338. With regard to the historical and social aspects of the problem of Jerusalem and the Israeli alterations of the features of the city of Jerusalem, it was pointed out: (a) that archaeological excavations were being continued, in particular, in the neighbourhood of El Haram el Sharif; (b) that the tunnels dug underground constituted a danger to monuments and dwellings above ground; and (c) that the features of the site and the demographic character of the city, including the Old City, had been radically altered by new buildings and displacements of Moslem and Christian communities.

339. With regard to the legal aspects, it was stated that the Executive Board had taken all possible measures to secure compliance with its decisions and that it had "submitted the matter" to the General Conference to take "further measures", of a more strenuous nature, designed to secure compliance with the decisions of the Organization and the provisions of its Constitution. It was in fact incumbent upon Unesco to safeguard a cultural legacy which did not belong to Israel.

340. Speaking of the political aspects of the question, one delegate emphasized the relationship between the question of Jerusalem and Unesco's broader objectives with regard to the elimination of colonialism, the right of peoples to self-determination and human rights. The political aspects were bound up with the cultural aspects, and Unesco could not fail to take account of them. According to him, the objective of Zionism was the total annexation of Jerusalem and, consequently, the destruction of the true character of the Holy Places. But for imperialism and Zionism, the Arabs and Jews would have been able to live together in peace. Measures similar to those taken against South Africa should be taken against Israel.

341. With regard to the religious and spiritual aspects of the question of Jerusalem's cultural property, one delegate belonging, he declared, to a country of both Islamic and Christian persuasion stated that the Israeli occupying forces were continuing to destroy the features of Jerusalem by carrying out excavations and putting up new buildings which disfigured the city. Immigrants were housed in those buildings, which were erected on sites that were both ancient and renowned. The cultural and spiritual heritage of Christianity and of Islam was denied by the occupying forces, whereas tolerance and peace had formerly reigned in Jerusalem. The safeguarding of Jerusalem should not be merely a matter of the conservation of hallowed stones, but also of preserving all the spiritual and moral values which had made Jerusalem an exceptional site.

342. Very many delegations spoke in support of draft resolution 18 C/SHC/DR.2. Some of them stressed the danger which, in their view, Zionism - as distinct from the Jewish religion - constituted. All of these expressed regret that the decisions and resolutions of the General Conference and the Executive Board and the resolutions of the United Nations and the Security Council had not been complied with by Israel. Several referred to the Constitution of Unesco and to the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954). Many strongly condemned the archaeological excavations carried out in violation of the decisions of the Executive Board and of the terms of the 1956 recommendation, as also the urban development operations effected by Israel in Jerusalem. One delegation stated that the purpose of draft resolution 18 C/SHC/DR.2 was not to expel Israel from the Organization but to abstain from furnishing any assistance to a Member State which, for many years, had failed to respect its resolutions and decisions.

343. The delegate of Israel stated that while Jerusalem had been the focus of Jewish life and history, his Government was deeply conscious of the universal interests in Jerusalem and the Holy Places located in it. Israel was wholeheartedly committed to preserving the unity and peace of the city, safeguarding its cultural heritage and the protection of the Holy Places. Israel would continue to ensure the freedom of access to them and their administration by their respective religious leaders. He stressed the fact that, in developing the City of Jerusalem, the authorities of his country were careful to ensure the preservation of the city's cultural heritage. The Israeli Government complied with and applied The Hague Convention of 1954, which did not prohibit archaeological excavations. Commissioners-General were at work, and none of them had ever reported any violation of the Convention. The delegate of Israel refuted Arab allegations concerning Jerusalem. Israel was co-operating with Unesco in the preservation of Jerusalem's cultural legacy, in particular by accepting the missions of the Director-General's representatives. He then quoted passages from the Director-General's reports to testify to the scholarly standards of the archaeological excavations, which had contributed much to the history of Jerusalem in all its periods and to the state of work in the tunnels, which in no way endangered the stability of the monuments in the Haram-el-Sharif area. Unesco should encourage archaeological excavations, which led to major scientific discoveries, rather than hamper them.

344. One delegate reiterated that there could be no question of concessions by Unesco on the substance of the problem, with regard to a city which was an object of concern to the whole Moslem world and to Christianity in its entirety. The Organization's prestige and authority were at stake in a matter which con-

cerned the cultural heritage of all mankind. Nevertheless, he wondered whether the adoption of paragraph 3 of 18 C/SHC/DR.2 might not jeopardize all that had been achieved so far. The time for appeals was past, but the missions undertaken by the representative of the Director-General had been a step forward, and he suggested that consideration might be given to the possibility of consolidating such action by appointing a permanent commissioner or observer, or perhaps even an international committee, to report to the Executive Board or the General Conference. Such measures would, he believed, be more effective than the action recommended in 18 C/SHC/DR.2. He proposed that if the co-authors of 18 C/SHC/DR.2 agreed, a working group should be established to examine in conjunction with the main parties concerned, ways and means of ensuring that Unesco was actually represented in Jerusalem.

345. Another delegate, supporting that proposal, expressed the hope that a draft resolution would be prepared which would secure a consensus in the Commission, not only with regard to objectives - on which there appeared to be agreement - but also with regard to ways and means of attaining those objectives. He requested the co-sponsors of draft resolution 18 C/SHC/DR.2 to include in the operative part a solemn appeal to Israel to cease forthwith the Mazar archaeological excavations, which were likely to endanger the foundations of religious or historical monuments. Furthermore, he pointed out that it was United Nations practice for Member States to condemn a country's action or failure to take action, and not the country itself. He therefore proposed that the wording used in operative paragraph 2 should be that of the corresponding part of the Executive Board's decision. The effective presence of Unesco in Jerusalem must be continued, and the Executive Board must receive reports from the Director-General in order to be able to take the steps which were required.

346. On behalf of its co-authors (the delegate of Nepal stated that his Government was not a co-sponsor of this draft resolution), a delegate then submitted draft resolution 18 C/SHC/DR.6, which sought to replace paragraph 3 of 18 C/SHC/DR.2 by the following two paragraphs:

Requests the Director-General to take all measures, in particular by intensifying Unesco's presence and action in Jerusalem, to achieve, with regard to the cultural interests of different religions, the objectives specified in the resolutions and decisions mentioned above;

Requests the Director-General to report to the Executive Board at its 97th session on the results achieved, and invites the Executive Board to consider, if necessary and in the light of the experience acquired, what means of pressure might be proposed to the General Conference at its nineteenth session with a view to safeguarding the interests of the international community which call for the scrupulous respect by Israel of the decision of Unesco."

347. Supporting the proposal for the creation of a working group, as well as the principle of draft resolution 18 C/SHC/DR.6, one delegate said that care should be taken to ensure that a situation did not arise, as the result of action taken in respect of Israel, in which Unesco was no longer able to exercise a certain measure of control over the situation in Jerusalem. He shared the concern of Moslems and Christians alike in that connexion.

348. Other delegates, whilst fully sharing the views of the co-authors of 18 C/SHC/DR.2 concerning the substance of the matter, nevertheless wondered whether paragraph 3 of that document, according to which Unesco would withhold assistance from Israel in the fields of education, science and culture, would in fact have the desired results. They suggested that other measures might be examined.

349. Two delegates said that they would be obliged to oppose 18 C/SHC/DR.2 and hoped that some way could be found of enabling Unesco to pursue its action in Jerusalem. One of those delegates stressed the importance of a dialogue between all the parties concerned.

350. Several members of delegations co-sponsoring draft resolution 18 C/SHC/DR.2 pointed out that the first paragraph of the draft resolution reaffirmed all the resolutions previously adopted by Unesco and insisted on their application, with particular reference to the need for a continued effective presence of Unesco in Jerusalem.

351. Three delegations exercised their right of reply to the declaration made by the delegation of Israel, which also replied to statements made by a number of delegations.

352. The Commission heard statements by the representatives of the Arab Educational, Cultural and Scientific Organization (ALECSO) and the Palestine Liberation Organization. The representative of ALECSO stressed the international responsibility of Israel for its violations of United Nations and Unesco resolutions, notwithstanding the Hague Convention. He indicated also that the Director-General of Unesco had reported in paragraphs 115 and 116 of document 18 C/16 on the situation of education and culture in the occupied Arab territories. The representative of the Palestine Liberation Organization laid particular emphasis on the repressive action taken by the Israeli authorities with regard to cultural and trade union movements and in journalistic circles, and also on religious persecution and the destruction of Arab dwellings in Jerusalem.

353. The Commission also heard statements from two international non-governmental organizations (the Jewish World Congress and the B'nai B'rith International Council).

354. The Commission rejected the proposal to set up a working group (48 votes against, 39 in favour, with 17 abstentions).

355. A procedural motion was submitted for the adjournment of the meeting or the debate until the Director-General was in a position to make in person the statement referred to in document 18 C/106, but the Commission rejected it, after a vote by roll-call: 30 votes in favour and 50 against, with 28 abstentions; 22 delegations were absent.

356. The Deputy Director-General, replying to the questions raised, remarked: (a) that the reports of the Director-General's representative, Professor Raymond Lemaire, were confidential and that it was for the Director-General to submit reports to the Executive Board in the light of the information supplied by Professor Lemaire; and (b) that the representative of the Director-General was responsible for considering only technical problems concerning the preservation of the city and site of Jerusalem. Those problems related, inter alia, to archaeological excavations, the preservation and restoration of monuments, the protection of sites, and urban development in the city of Jerusalem.

357. On his last mission to Jerusalem, in September 1974, the Director-General's representative had continued to receive all the help required from the Israeli authorities, and had been able to hold discussions, in Jerusalem, with all those mainly concerned. Nevertheless, it was not always easy to establish all the facts and to assess all their implications in situations of that kind.

358. With regard to excavations, it should be noted, firstly, that The Hague Convention contained no express provision forbidding archaeological excavations. It was, however, true that a recommendation adopted by the General Conference in 1956 did contain a clause recommending occupying powers to refrain from carrying out excavations in occupied territory. The interpretation of those texts was not a matter for the Director-General or the Secretariat.

359. In general, Professor Lemaire's latest report indicated that some progress had been made in Jerusalem with regard to the preservation of the cultural heritage

(a) So far as archaeological excavations were concerned, those carried out by Professor Mazar near El Haram-el-Sharif were open to certain criticisms in respect of the methods used. The excavations in the Jewish quarter continued to be carried out on sound scientific principles.

(b) The dangers of collapse due to tunnelling still existed, and the Director-General's representative had drawn the attention of the Israeli authorities to them. The authorities had undertaken to remedy the situation, and had given the necessary instructions for reinforcing the tunnels.

- (c) The work on the restoration of certain souks appeared to be satisfactory.
- (d) Work on the El Aksa mosque was going ahead. It was a case of "reconstruction" rather than "restoration".
- (e) Technical assistance appeared to be necessary to facilitate the installation of the Islamic museum, and Unesco was prepared to provide such assistance.
- (f) Building operations in Jerusalem and the urban development of the city appeared to have slowed down somewhat.

360. The Deputy Director-General then made the following statement, which circumstances had prevented the Director-General from making in person:

"The presence, the action and the influence of Unesco in Jerusalem must be reinforced. A policy of absence would be a policy of renunciation. And how could Unesco continue to concern itself with education, science and culture in the occupied territories if it were no longer present in Jerusalem, the city cherished above all others by so large a part of mankind?

There are various possible ways of proceeding to be considered. The Director-General puts the matter to the General Conference. It is essential that Israel should be aware, and be constantly aware, that international public opinion is concerned, on strictly cultural grounds, about the preservation of Jerusalem; and should abstain, until a peaceful settlement is reached, from any unilateral decisions on this subject.

Unesco is the only Organization which has authority:

- (a) to represent the conscience of the international community in this matter;
 - (b) to restrain the process of unilateral decision-making."
361. The Legal Adviser, in answer to a question, reminded the meeting that, in other circumstances, the General Conference had, at a previous session, been led to reaffirm its right, as the sovereign body of Unesco, to interpret the provisions of the Constitution. It was thus not for him to interpret the Constitution at a time when the General Conference was actually in session.
362. One delegate pointed out that on the previous occasion alluded to by the Legal Adviser, the General Conference had taken its decision basing itself on decisions of the United Nations General Assembly to withhold assistance from a particular government. There was no such decision of the United Nations in the present instance.
363. The Commission took up draft resolution 18 C/SHC/DR.6 which put forward a proposed new text for paragraph 3 of 18 C/SHC/DR.2 and an additional paragraph 4 to this same draft resolution. On a request from the floor, votes were taken separately by roll-call on these two paragraphs. The Commission rejected both the proposed new text for paragraph 3 of draft resolution 18 C/SHC/DR.2 (30 votes in favour, 49 against, 25 abstentions, and 26 absent) and the proposed additional paragraph 4 (16 votes in favour, 53 against, 35 abstentions and 26 absent).
364. The delegates of the Federal Republic of Germany, Chile and the United Kingdom explained their votes on the proposal contained in draft resolution 18 C/SHC/DR.6, to add a new paragraph 4 to draft resolution 18 C/SHC/DR.2. They indicated that, since the proposed new text of paragraph 3 had not been accepted by the Commission, it was illogical to add a new paragraph 4 as proposed in draft resolution 18 C/SHC/DR.6, and they had therefore voted against this proposal.

365. The Chairman then asked the Commission to consider draft resolution 18 C/SHC/DR.2. The delegate of Spain proposed that the word "barefacedly" be deleted from the seventh paragraph of the preamble. This was accepted by the delegate of Algeria on behalf of the sponsors of the draft resolution.
366. The text of the preamble, with the exception of the last paragraph on which a separate vote would be taken, was approved by the Commission by 66 votes to 9, with 23 abstentions. The last paragraph of the preamble was approved by the Commission by 63 votes to 11, with 25 abstentions.
367. Following proposals from the floor the Commission voted on the operative portion of draft resolution 18 C/SHC/DR.2 paragraph by paragraph, the first paragraph by show of hands and the second and third paragraphs by roll-call.
368. The Commission approved paragraph 1 of the operative portion of draft resolution 18 C/SHC/DR.2 by 65 votes in favour, 10 against and 25 abstentions. Paragraph 2 was approved by the Commission (60 in favour, 15 against, 28 abstentions, and 27 absent). By 52 votes to 30, with 21 abstentions and 27 absent, the Commission approved paragraph 3 of the operative portion of draft resolution 18 C/SHC/DR.2
369. The Commission then recommended by 54 votes to 21, with 25 abstentions, that the General Conference adopt draft resolution 18 C/SHC/DR.2 with the amendment proposed orally by the delegate of Spain.

Explanation of vote

370. The delegate of the U.S.A. stated that his country had consistently supported Unesco's programme for the preservation and protection of the cultural heritage. The United States had voted against and opposed this resolution, as it would the resolution's implementation, because the United States considered it a politically motivated and unjustified sanction against a Member State which might turn Unesco into a purely political forum and a place of bitter confrontation. The United States deplored the passage of a resolution it considered unjust and which would not contribute constructively to protecting cultural property in Jerusalem or to the fragile negotiating process among parties to the Middle Eastern dispute.
371. The delegate of Senegal stated that though his country condemned the attitude of Israel, he had doubts on the efficacy of this draft resolution, the implementation of which would pose difficulties for the Organization.
372. The delegate of Uruguay stated that they had abstained from voting on 18 C/SHC/DR.2 as they thought that withholding assistance from Israel would not serve the purpose of the draft resolution.
373. The delegate of Sweden remarked that his country was against any action by Israel that aimed at making permanent its occupation of the territories acquired by force. But they were against this draft resolution as it came close to depriving a Member State of participation in the Organization's work. They thought that Unesco's presence in Jerusalem should be strengthened and not weakened.
374. The delegate of Norway also stated that paragraph 3 of the operative clause of 18 C/SHC/DR.2 would not serve the purpose invoked, as it was likely to interfere with the presence of Unesco in Jerusalem.
375. The delegate of Switzerland justified his opposition to the draft resolution on the same grounds. His country considered that international organizations had to provide a forum for dialogue between all those concerned in disputes.

376. The delegate of Malawi who had abstained from voting on this draft resolution thought that the discussion made it clear that the proposal was tantamount to the expulsion of Israel from Unesco which would be a political decision. He considered that a decision of that nature was outside the competence of Unesco and should more appropriately be taken at the United Nations.

377. The delegates of Yugoslavia, Syria and Egypt, whilst explaining their votes, observed that as co-sponsors of this draft resolution, they firmly believed that, in spite of many earlier resolutions and warnings, the attitude of Israel was not constructive. The delegate of Yugoslavia felt that the Member States were there not only to accept aid from Unesco but also to conform to the principles of the Organization. He pointed out that, unfortunately, adoption of the draft resolution was inevitable because Israel was persistently neglecting resolutions on excavations in Jerusalem which were passed by the United Nations bodies and Specialized Agencies. The third paragraph was conditioned by the changes in attitudes and activities of Israel towards Unesco and General Assembly resolutions regarding the preservation of the cultural property and heritage in Jerusalem.

378. The delegates of Syria and Egypt expressed their profound appreciation to those States who had supported the draft resolution. The Syrian delegate particularly stated that his delegation's support to condemn Israel and to stop Unesco's aid was based purely on cultural and humanitarian grounds and not on political grounds. The Egyptian delegate maintained that the purpose of 18 C/SHC/DR.2 was to uphold Unesco's prestige and to ensure the implementation of its resolutions. Paragraph 3 of the operative clause of this draft resolution was a conditional clause and subject to the observance of certain demands which were made by earlier resolutions. As such, it did not go beyond the mandate of Unesco and should, in fact, prove helpful in achieving its objectives of peace in the world. The delegate of Iraq proposed adding the following to the end of paragraph 48: "Explaining his vote, the delegate of Iraq expressed his profound appreciation of all those who had voted for 18 C/SHC/DR.2. He pointed out the motives which had induced the delegation of Iraq to co-sponsor it, namely esteem for Jerusalem's position from the point of view of civilization, the importance of shielding it from Israeli military annexation, and the importance of preserving the prestige of international organizations and respect for their resolutions. He then repeated his interpretation of the resolution, endorsing the statement in its first paragraph to the effect that the Executive Board and the Secretariat should continue to work for the implementation of the resolutions of the General Conference, and particularly of that concerning the presence of Unesco in Jerusalem itself."

379. The Deputy Director-General consulted the Commission on the interpretation and application of the resolution which the Commission had adopted, as its recommendations to the plenary were not simple matters whether viewed from a practical, psychological or political point of view as in fact had been noted by several delegations. Careful note had been taken of the statements made both before the vote and in the explanations of vote and the interpretations placed upon the resolution by a number of delegations. In particular, paragraphs 1 and 3 of the operative part of the resolution were interrelated. He stated that the Director-General accepted that paragraph 1 reaffirmed all the resolutions mentioned above in the preambular paragraphs and that it insisted on their implementation. One of the resolutions referred to and reaffirmed was resolution 3.422 of the seventeenth session of the General Conference which invited the Director-General to continue efforts to establish an effective presence of Unesco in the city of Jerusalem. The Director-General would consider that even in new circumstances, he should continue his efforts to act upon that resolution.

380. The Director-General was studying those resolutions again in their ensemble in the light of the recommended resolution, to make sure he saw all the implications; he may wish at a later stage to state his interpretation or to seek clarification as to the significance and the practical actions which he was called upon to take, some of which of course may not be susceptible of full interpretation or explanation at that time and may lead to subsequent consultation with the Executive Board in the carrying out of any such resolution.

381. In the case of operative paragraph 3 for which there may also be implications in respect of the implementation of all the resolutions referred to, there was also the question of interpreting the phrase "withholding" and in particular of the meaning of the word "assistance". At the moment, under normal circumstances, assistance would refer to the Participation Programme under the Regular Programme and would also refer to the administration of projects under the United Nations Development Programme and other extra-budgetary programmes.