

FINANCIAL AND ADMINISTRATIVE FRAMEWORK AGREEMENT

between

the EUROPEAN COMMUNITY, represented by the COMMISSION OF THE EUROPEAN COMMUNITIES

and

the UNITED NATIONS

Preamble

The United Nations¹ (hereinafter referred to collectively as the “United Nations” or “UN” and individually as a “UN organisation”) and the Commission of the European Communities (hereinafter referred to as the “Commission”) are willing to work together in a spirit of partnership in order to help achieve the Millennium Development Goals.

Both Parties will endeavour to strengthen their mutual contacts with a view to improving the exchange of information on programming and content throughout the cycle of their operations. In particular, the United Nations secretariats will welcome the presence and participation of Commission representatives in United Nations boards and committees, it being understood that the decisions relating thereto rest with the relevant United Nations governing bodies.

As outlined by the Commission in its 2 May 2001 communication on building an effective partnership with the United Nations, and by the Secretary-General in his response, this Agreement sets out a framework for the United Nations and the Commission to enhance their cooperation including programmatic partnership.

¹ The term, “United Nations”, means the United Nations Secretariat (including: the Department of Political Affairs, the Department for Disarmament Affairs, the Department of Peacekeeping Operations (the United Nations Mine Action Service), the Department of Economic and Social Affairs, the United Nations Conference on Trade and Development, the Office for the Coordination of Humanitarian Affairs, the Office on Drugs and Crime, the Office of the United Nations Security Coordinator, the Economic Commission for Africa, the Economic Commission for Europe, the Economic Commission for Latin America and the Caribbean, the Economic and Social Commission for Asia and the Pacific, the Economic and Social Commission for Western Asia, the Office of the United Nations High Commissioner for Human Rights, the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Islands Developing States); the United Nations Children’s Fund; the United Nations Development Programme; the United Nations Development Fund for Women; United Nations Volunteers; the United Nations Relief and Works Agency for Palestine Refugees in the Near East; the Office of the United Nations High Commissioner for Refugees; the United Nations Population Fund; the United Nations Environment Programme; the United Nations Human Settlements Programme; the United Nations Drug Control Programme; the Center for International Crime Prevention; the International Trade Centre; United Nations University; the United Nations Institute for Training and Research; the United Nations Research and Training Institute for the Advancement of Women; the World Food Programme. Others may be covered later pursuant to the provisions of Article 15.3. The term, the “Commission” refers to all the Services (including EuropeAid and ECHO) within the Commission.

Where possible and desirable, such cooperation will take the form of actions, the performance of which requires the pooling of resources from a number of donors, and where it is not reasonably possible or appropriate to assign the share contributed by each donor to each type of expenditure. In these cases (hereinafter referred to as “Multi-donor Actions”), UN organisations may manage EC contributions in accordance with their own regulations and rules based on the understanding that these conform to internationally accepted standards as regards accounting, audit, control and procurement procedures.

The Parties will examine the possibilities for further harmonising the procedures they use in co-operating with each other; this will include the examination by the Commission of possibilities for adapting existing Community rules on nationality and origin in such a way as to facilitate enhanced collaboration with the United Nations.

Where in the implementation of this financial and administrative framework agreement (hereinafter referred to as the “Agreement”) the Commission makes a financial contribution (hereinafter referred to as an “EC contribution”) to an operation, programme or project administered by the United Nations (hereinafter referred to as an “Action”), the relevant contribution-specific agreement shall reflect the principles contained in this Agreement. This shall apply whether the contribution-specific agreement with the UN organisation is signed by the Commission itself or signed by the beneficiary country² and endorsed by the Commission, in particular in the case of financing under the European Development Fund.

All activities undertaken hereunder are directed towards the attainment of results: humanitarian, developmental or otherwise. The shift to a results orientation should be accompanied by a corresponding shift away from the exclusive examination of inputs and activities: it should simplify the administration of, and information generated by, UN Actions.

Now therefore the Parties, each acting within its applicable rules and procedures, agree as follows:

1. Focus on results

- 1.1. UN submissions of proposals pertaining to Actions for which EC contributions are provided, will include objectives and indicators of achievement to be agreed in contribution-specific agreements. These will be reflected in subsequent workplans and reports. Performance measures will be based on objectives that are specific, measurable, attainable, realistic and time-based. Indicators for the contribution-specific agreement may be linked to the more general indicators relevant for the whole Action.
- 1.2. Commission representatives shall be invited to participate in the main monitoring and in the evaluation missions relating to the performance of Actions that have received funding from the Commission. The results of such missions shall be reported to the Commission.

² In this latter case references to the Commission in this Agreement shall, where relevant, apply *mutatis mutandis* to the contracting party in the beneficiary country.

- 1.3. This is without prejudice to any evaluation mission which the Commission as a donor may wish to perform. In order to facilitate the coordination between UN and Commission evaluation, UN submissions of proposals will outline the proposed evaluation plan of the relevant Action.
- 1.4. Evaluation missions by Commission representatives should be planned and completed in a collaborative manner between UN staff and Commission representatives, keeping in mind the commitment of both the UN and the Commission to the effective and efficient operation of their agreement. These missions are to be planned ahead and procedural matters are to be agreed upon by the Commission and the UN organisation concerned in advance. These essentially include such matters as timing and scope of the mission, questions the mission wishes to raise with management of the organisation, nature of programme information, and whether missions are to visit headquarters locations and/or field offices. All staff involved should bear in mind their limited resources in terms of availability and capacity in handling these visits. The mission will offer to make a draft of its report available to the organisation's management for comments prior to final issuance.

2. Reporting

- 2.1. Reporting, narrative as well as financial, shall cover the whole of the Action described in the relevant contribution-specific agreements and their attached budgets, regardless of whether this Action is wholly financed or co-financed by the Commission.

The contribution-specific agreement sets out the information to be provided in reports by the United Nations to the Commission.

- 2.2. The Commission may not always request a specific format for budgets in contribution-specific agreements and reports, provided that a sufficient level of detail is provided in the United Nations' proposals and standard reports. Where a specific format for budgets and financial reports is to be required then the specificity should be reduced to the degree possible. The level of detail in the budget (and subsequent financial reports) should match that of the description of the Action in the contribution-specific agreement.
- 2.3. Reports to be submitted to the Commission will be in Euro. These reports may be drawn from financial statements denominated in US dollars as per UN legislative requirements. Where necessary, actual expenditure will be converted into Euro using the rate of exchange at which the EC's contribution was recorded in the United Nations' accounts.
- 2.4. The Commission will consider establishing contribution-specific agreements that coincide with the United Nations' reporting cycles, so as to facilitate the use of the United Nations' standard reports, without the need for drafting specific reports for the Commission. This may entail, where the Action had to start before the contribution-specific agreement is signed, that costs incurred prior to the signature of such agreement are nonetheless eligible, if

so determined case by case in such agreement. In such case these costs must be reported on.

2.5. For contribution-specific agreements exceeding 12 months, the minimum requirement of the Commission is a yearly narrative and financial report. The narrative report shall directly relate to the relevant agreement and shall at least include:

- summary and context of the Action;
- activities carried out during the reporting period (i.e. directly related to the Action description and activities foreseen in the contribution-specific agreement);
- difficulties encountered and measures taken to overcome problems;
- changes introduced in implementation;
- achievements/results by using indicators (to be included in the contribution-specific agreement);
- work plan for the following period. If the report is sent after the end of the period covered by the preceding work plan, a new work plan, albeit provisional, is always required before such date.

2.6. In all cases a final report is required covering the whole period of implementation of the contribution-specific agreement. This must be received by the Commission within three months after the end of the implementation period specified in the contribution-specific agreement in the case of humanitarian assistance and other programmes of emergency assistance, and six months in other cases.

In the case of delay in the submission of the final report without an acceptable written explanation the Commission may refuse to pay any outstanding amount and recover any amounts unduly paid.

2.7. In addition to the standard reports to donors, the United Nations will ensure that progress and situation reports, publications, press releases and updates, relevant to the contribution-specific agreement, are communicated to the Commission as and when they are issued.

2.8. The Parties shall endeavour to promote close collaboration and exchange of information between officials entrusted with the management of Actions on both sides. In particular, the Commission shall always be invited to join any donor committee which the relevant UN organisation might set up in connection with Multi-donor Actions.

3. Eligible direct costs

3.1. To be considered eligible as direct costs in the context of an Action financed or co-financed by the Commission, costs must:

- be necessary for carrying out the Action, be provided for specifically in the contribution-specific agreement and comply with the principles of sound financial management, in particular value for money and cost-effectiveness;
- have actually been incurred during the implementation period of the Action specified in the contribution-specific agreement, whatever the time of actual disbursement by the UN organisation;
- be recorded in the United Nations' or United Nations' partners' accounts, be identifiable, backed by originals of supporting evidence, and verifiable pursuant to the provisions on the verification clause attached as the annex.

3.2. Subject to the above, the following direct costs may in particular be eligible:

- the cost of UN staff assigned to the Action, corresponding to actual salaries plus social security charges and other remuneration-related costs. Identifiable personnel costs at headquarters level arising as a direct consequence of the Action may be included. Salaries and costs will not exceed those normally borne by the United Nations;
- travel and subsistence costs for UN staff taking part in the Action, provided they do not exceed those normally borne by the United Nations;
- purchase costs for equipment (new or used) which are attributable to the Action. Unless otherwise specified in the contribution-specific agreement, such equipment will be transferred to local authorities or partners (excluding commercial contractors) of the United Nations or the final recipient of the Action at the end of this Action;
- purchase costs for goods and services (transport, storage and distributing, rent of equipment, etc.) which are directly attributable to the Action;
- costs directly arising out of, or related to, accepting or distributing contributions in kind;
- costs of consumables and supplies directly attributable to the Action;
- expenditure on contracting or expenditure incurred by the United Nations' partners directly attributable to the Action;
- the proportion of field office costs that corresponds to the amount of activity directly attributable to the Action or to the proportion of Commission funding;
- costs deriving directly from the requirements of the contribution-specific agreement (dissemination of information, specific evaluation of the Action, specific reporting for Commission needs, translation, reproduction, insurance, targeted training for those involved in the Action, etc.) including financial service costs (in particular bank fees for transfers);

- 3.3. The following costs shall not be considered eligible:
- debts and provisions for possible future losses or debts;
 - interest owed by the United Nations to any third party;
 - items already financed from other sources;
 - purchases of land or buildings;
 - currency exchange losses;
 - taxes, duties and charges (unless the United Nations is not able to reclaim them and if allowed by the applicable regulatory provisions);

4. Eligible indirect costs

- 4.1. For EC contributions, a fixed percentage of direct eligible costs, not exceeding 7 %, shall be eligible as indirect costs.
- 4.2. For comparable Actions and Actions where there is more than one donor the amount recovered shall not, in percentage terms, be higher or lower than for other comparable contributions.
- 4.3. Indirect costs are eligible provided that they do not include costs assigned to another heading of the budget of the contribution-specific agreement.
- 4.4. Indirect costs may also be charged on the value of in-kind commodities delivered by the Commission, including their associated costs.
- 4.5. Where the rates applied in accordance with United Nations' governing bodies' decisions exceed 7%, the United Nations may recover the balance as direct eligible costs, subject to the provisions governing direct eligible costs referred to in Article 3 being fulfilled.

5. Contracting

- 5.1. The United Nations regularly implements Actions in collaboration with other entities. In deciding which activities will be contracted to other entities and which ones will be implemented directly, the UN considers cost as one of the determining factors, considering that contracting should not lead to increased costs over direct implementation by the UN itself.
- 5.2. The UN entity, in presenting its proposal for financing or co-financing by the Commission towards an Action will, in as much as possible, provide details of contracting arrangements and partners envisaged. If the UN entity cannot present full details of contracting arrangements, it will undertake to present them as soon as they are available. The UN entity will also undertake to inform the Commission, with as much prior notice as possible, of changes in these arrangements.

- 5.3. The UN is fully responsible for the co-ordination and execution of all contracted activities.

6. Procurement of goods, works and services

- 6.1. The procurement of any goods, works or services by the United Nations in the context of an Action financed or co-financed by the Commission shall be carried out in accordance with the applicable rules and procedures adopted by the United Nations. The Commission and a UN organisation may agree on appropriate procurement rules and procedures in specific cases depending on the applicable regulatory provisions on each side.
- 6.2. This is based on the understanding that United Nations' rules and procedures conform to internationally accepted standards, including the award of contract to the tender offering best value for money, in compliance with the principles of transparency and equal treatment for potential contractors, care being taken to avoid any conflict of interests. The provisions on the verification clause attached as the annex shall apply. In the event of failure to comply with the above provisions the relevant costs shall not be eligible for Commission funding.
- 6.3. In Multi-donor Actions, the Commission is prepared, if allowed by the applicable regulatory provision, to accept that the United Nations' rules of origin apply. In other cases, the origin of the goods and the nationality of the companies and experts selected for carrying out activities in an Action financed or co-financed by the Commission shall be determined by the parties to a contribution-specific agreement on a case by case basis, depending on the applicable regulatory provisions on each side.

7. Payment schedules

- 7.1. The Commission will apply the following contribution payments policy:
 - 7.1.1. When the implementation period for which an EC contribution is provided does not exceed 12 months or the contribution is less than EUR 100 000, the Commission will provide an advance payment of from 80% up to 95% of its contribution within 45 days of receiving the contribution-specific agreement signed by both parties and accompanied by a request for payment. The Commission will pay the balance within 45 days of approving the final report.
 - 7.1.2. When the implementation period for which an EC contribution is provided exceeds 12 months and the contribution is of EUR 100 000 or more, the Commission will provide an advance payment of from 80% to 95% of that part of the forecast budget for the first 12 months of an Action which is being financed by it within 45 days of receiving the contribution-specific agreement signed by both parties and accompanied by a request for payment.

Each additional payment will cover the remainder of the Commission's part of the budget for the previous period plus from 80% to 95% of that part of the forecast budget for the subsequent 12-month period which is financed by it, and be made by the Commission within 45 days of approving an intermediate report, provided that at least 70% of the immediately preceding payment (and 100% of previous payments if any) has been incurred.

The Commission will pay the balance within 45 days of approving the final report.

- 7.1.3. Any report will be deemed approved 45 days after receipt, accompanied by a request for payment, if the Commission has not reacted.

If the Commission does not intend to approve a report, as submitted, it shall revert to the UN with a request specifying the additional information it requires within the first 45-day period. The deadline for approving the report shall be suspended pending the receipt of the requested information. If the Commission deems that a payment request cannot be met, it shall revert to the UN with a request specifying the additional information it requires within the second 45-day period. The payment period shall be suspended pending the registration of a properly formulated payment request.

- 7.1.4. The level of advance payment referred to in paragraphs 7.1.1 and 7.1.2 above shall be set at a level of between 80% and 95 % in 5% increments taking into account past record of the UN organisation in particular as regards timely submission of the final report.

- 7.2. In the case of trust funds or special accounts, the UN may utilise the available balance pertaining to one contribution-specific agreement to meet the immediate, including final, requirements of another providing that:

- it anticipates receipt of payment from the Commission for the contribution-specific agreement towards which the available balance was advanced in sufficient time to ensure that the contribution-specific agreement from which the funds were advanced is reimbursed without disruption or delay;
- the reimbursement of the contribution-specific agreement from which funds were advanced includes the amount advanced and an amount corresponding to the bank interest, if any, that would have been earned had these funds remained on account.

8. The Euro

- 8.1. All contribution-specific agreements between the UN and the Commission shall be denominated in Euro. All Commission payments to the UN shall be made in Euro.

- 8.2. Where feasible, EC contributions shall be maintained in Euro-denominated bank accounts. They may be pooled together with contributions from other donors. They may be exchanged for other currencies in order to facilitate their disbursement.
- 8.3. Publicity pertaining to EC contributions shall quote these contributions in Euro, in parenthesis if necessary. UN publications and reports prepared in response to, and in accordance with, its legislative directives are excluded from this provision.

9. Bank interest

- 9.1. For Multi-donor Actions, UN rules and procedures pertaining to bank interest shall apply, and an equal treatment among donors shall be ensured. This is based on the understanding that these rules and procedures conform to internationally accepted standards.
- 9.2. In all other cases, interest earned by the UN shall be identified as such and reflected in reports to the Commission. Interest earned shall be reimbursed to the Commission unless where the applicable EC regulatory provisions allow such interest to be credited to the respective Action. In the latter case this will be stipulated in the relevant contribution-specific agreement.

10. Other financial issues

- 10.1. In order to ensure that Commission funds will remain available, and can be fully utilised, EC contributions will be expressed as the lower of an absolute amount and a percentage of projected total eligible expenditures. In the case of Multi-donor Actions, they will be expressed as absolute amounts rather than as percentages of projected total eligible expenditures where the final funding of the Action is not known at the time of signing the contribution-specific agreement.

Where the EC contribution is expressed as the lower of an absolute amount and a percentage of projected total eligible expenditures, and such percentage is likely to change, the UN organisation will consult the Commission without delay so as to agree on appropriate measures, such as increasing the percentage of eligible expenditures.

- 10.2. In exceptional cases, including those mentioned in Article 2.4 above, the Commission may provide funding for an Action in progress provided that it has not started before the date on which the request for funding has been received. For humanitarian operations or other emergency assistance, the Commission may provide funding for an Action started by a humanitarian organisation before the date on which it has received the request for financing. In all cases this must be specified in the contribution-specific agreement.

- 10.3. In cases where the Action is suspended or not completed within the period defined in the contribution-specific agreement, the funds that remain unexpended after all liabilities incurred in this period have been satisfied, including interest earned (subject to Article 9.2), will be reimbursed to the Commission, unless agreed otherwise in writing.
- 10.4. The Commission will inform UN organisations with which it has or is likely to have contribution-specific agreements, on its programming intentions as early as possible in the budgetary exercise, including, on an indicative basis, the amounts likely to be available during the current exercise.
- 10.5. The Commission will make every effort to allow for the necessary flexibility to enable UN organisations operating in highly volatile situations to meet evolving needs during the implementation period.
- 10.6. The United Nations will make every effort to define in advance the aspects most likely to be affected by changes in a given situation.
- 10.7. The contribution-specific agreement will specify the degree of flexibility, including budgetary re-allocations, to be exercised by the United Nations. Any changes, including to the implementation period, shall be subject to prior written authorisation by the Commission.
- 10.8. The Commission may allow inclusion in the initial budget of a contribution-specific agreement of a contingency reserve, at the request of the UN organisation concerned, to cover any adjustment necessary in the light of changed circumstances on the ground. The contingency reserve should not be higher than 5% and can only be used with the prior written authorisation of the Commission.
- 10.9. In the case of co-financing, contributions in kind made by a UN organisation may not be considered as co-financing from such UN organisation nor as eligible costs in the contribution-specific agreement.
- 10.10. In the case of Multi-donor Actions, except as otherwise provided in this Agreement or in the relevant contribution-specific agreement, the UN organisation will ensure equal treatment among all donors.

11. Visibility

- 11.1. Unless the Commission requests or agrees otherwise, the UN shall take all appropriate measures to publicise the fact that an Action has received funding from the European Union. Information given to the press, the beneficiaries of an Action, all related publicity material, official notices, reports and publications, shall acknowledge that the Action was carried out "with funding by the European Union" and shall display in an appropriate way the European logo (twelve yellow stars on a blue background). It is understood that UN equipment and vehicles routinely carry the UN emblem and other indications of ownership prominently displayed. In cases where equipment or vehicles and major supplies have been purchased using funds provided by the Commission, the UN agrees to include appropriate

acknowledgement on such vehicles, equipment and major supplies (including display of the European logo (twelve yellow stars on a blue background) provided that such actions do not jeopardise the United Nations privileges and immunities provided under the 1946 Convention on the Privileges and Immunities of the United Nations and the safety and security of United Nations staff.

- 11.2. The size and prominence of the acknowledgement and European Union logo shall be clearly visible in a manner that will not create any confusion regarding the identification of the Action as a UN activity, the ownership of the equipment and supplies by the UN, and the application to the Action of the UN privileges and immunities.
- 11.3. All UN publications pertaining to Actions that have received funding from the Commission, in whatever form and whatever medium, including the Internet, shall carry the following or a similar disclaimer: "This document has been produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union."
- 11.4. If the equipment bought with an EC contribution is not transferred to local partners of the United Nations or the final recipient of the Action at the end of the implementation period specified in the contribution-specific agreement, the visibility requirements as regards this equipment (in particular display of the EU logo) shall continue to apply between the end of the implementation period specified in the contribution-specific agreement and the end of the overall Action, if the latter is longer.

12. Ex post publicity

The United Nations accept that for each contribution-specific agreement hereunder, the Commission publishes on its website the name and address of the relevant UN organisation, the purpose of the grant as well as the amount contributed and if relevant the percentage of co-financing.

13. Consultations

- 13.1. The Parties will establish a working group to promote a regular exchange of information on all matters arising out of this Agreement. The working group will meet at least once a year to review the implementation of this Agreement. It may propose any appropriate action, including amendments to this Agreement, in the light of the results obtained or of changes in the regulatory framework of the Parties.
- 13.2. Any amendment to this Agreement shall be done in writing.

14. Settlement of disputes

- 14.1. The affected parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation, application or fulfilment of this Agreement or any contribution-specific agreement, including their existence, validity or termination. In default of amicable settlement, any affected party may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of this Agreement.
- 14.2. The language to be used in the arbitral proceedings shall be English. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either party. The Arbitrator's decision shall be binding on all affected parties and there shall be no appeal.
- 14.3. Nothing in this Agreement shall be interpreted as a waiver of any privileges or immunities accorded to any Party hereto by its constituent documents or international law.
- 14.4. Contribution-specific agreements shall contain provisions incorporating the above.

15. Entry into force and termination

- 15.1. This Agreement shall enter into force upon signature by both Parties.
- 15.2. This Agreement shall apply to all contribution-specific agreements entered into between the Commission and the United Nations after the date hereof, unless otherwise agreed in exceptional circumstances by the Commission and the relevant UN organisation. For such contribution-specific agreements it shall cancel and replace the agreements of 21 December 1994, 9 August 1999, 12 October 2000 and 6 November 2001.
- 15.3. Any UN organisation may adhere to this Agreement after the date hereof, by an exchange of letters with the Commission. This Agreement shall enter into force as regards such UN organisation as from the date of such exchange of letters.
- 15.4. This Agreement shall not affect contracts or agreements entered into prior to the date of its entry into force, which shall remain governed by the above-mentioned agreements unless otherwise provided in these contracts or agreements.
- 15.5. Any general conditions applicable to contribution-specific agreements, to which this Agreement applies, shall fully conform to the provisions hereof.
- 15.6. This Agreement may be terminated by either Party upon giving six (6) months' prior written notice to that effect to the other Party. Unless the Parties agree on another course of action, any contribution-specific

agreement entered into before the termination of this Agreement shall not be affected by such termination.

The following annex³ shall form an integral part of this Agreement:

Agreement on the application of the verification clause to operations administered by the United Nations and financed or co-financed by the European Community

EUROPEAN COMMUNITY, represented by the
COMMISSION OF THE EUROPEAN
COMMUNITIES

UNITED NATIONS

[By:]
Date: ..., 2002

[By:]
Date: ..., 2002

³ The contents of the annex were agreed in an exchange of letters between the United Nations and the Commission, effective 6 November 2001. Where the terms operation, programme or project are used in the annex, either singularly or in combination, they should be read as meaning ‘Action’ as defined in the preamble to this Agreement. Where the terms conventions, contracts or financing agreements are used in the annex, they should be read as meaning “contribution-specific agreement” as used in this Agreement.

ANNEX

Agreement on the application of the verification clause to operations administered by the United Nations and financed or co-financed by the European Community

On 21 December 1994, the United Nations (UN) and the European Commission (the Commission) agreed on the text of a financial control clause to be included as an integral provision in all conventions, contracts and financing agreements between the UN and the Commission as of 1 January 1995. The text of that agreement is reproduced below and remains valid.

The Clause Itself

The clause itself is as follows:

- "(a) Financial transactions and financial statements shall be subject to the internal and external auditing procedures laid down in the Financial Regulations, Rules and directives of the United Nations. A copy of the audited financial statements shall be submitted to the European Commission by the United Nations.
- (b) The United Nations shall:
 - (i) keep financial and accounting documents concerning the activities financed by the European Communities and,
 - (ii) make available to the competent bodies of the European Communities, upon request, all relevant financial information, including statements of accounts concerning the programme/project, where they are executed by the United Nations or by subcontracting.
- (c) In conformity with its Financial Regulation, the European Communities may undertake, including on the spot, checks related to the operations financed by the European Communities."

The Operation of the Clause

The operation of this clause has been largely uncontroversial since it was adopted by the UN and the Commission. We feel this is for two reasons. First, the 1994 agreement represents a reasonable attempt to accommodate the requirements of both Parties while at the same time respecting each party's fundamental principles of financial management and control. Second, the 1994 agreement actually sets out an explanation of the clause, to assist UN staff and Commission staff in implementing it.

The Explanation set out in the 1994 Agreement

As regards the agreement to make "all relevant financial information" available, the 1994 agreement explains that "the information shall be drawn from accounts and records". Such information "will be in a form which makes it possible for the Communities to verify the use to which its funds or contributions have been put". Moreover, under the 1994 Agreement it "is further agreed and understood that clarifications, including verification of specific documents, may be requested by the European Communities". By way of further explanation, the 1994

agreement provides that the UN "will refer those requests to the United Nations Board of Auditors to respond as necessary".

As regards the agreement about checks (including on-the-spot checks) relating to operations financed by the Commission, the 1994 agreement explains that representatives of the Commission "will be given access to the site of the project and/or the headquarters of the United Nations Secretariat or relevant organisation or programme." In addition, as part of those checks, UN staff "will supply all relevant financial information and will explain to the European Communities representatives, with appropriate concrete examples, how the accounts are managed and the procedures used to ensure transparency and accuracy in the accounts and to guard against the misuse of funds and fraud."

The Benefit of Further Guidance

Although the operation of the financial control clause has been largely uncontroversial, the Working Group between the United Nations and the European Commission established to elaborate and clarify various aspects of the 9 August 1999 agreement on the "Principles Applying to the Financing or Co-financing by the Community of Programmes and Projects Administered by the United Nations" has felt it appropriate to provide further guidance to UN staff and Commission staff on the operation of the clause -- particularly the conduct of checks. Both the UN and the Commission are committed to making the operation of this clause as effective and efficient as possible, and hence the agreement to provide further guidance.

The Working Group has spent some time consulting on this issue. Having taken note of the text of the 1994 agreement, the verification clause set out in that agreement and the explanation of it agreed to by the UN and the Commission in 1994 (as set out in the agreement), the Working Group has now reached the following understanding.

The Overarching Principles

We are agreed that the overarching principles for the operation of the clause are as follows:

- The Commission acknowledges the mandated primacy of UN oversight and control systems, including the principle of exclusive or single audit by United Nations External Auditors, and in keeping with internationally-accepted practice in the discipline of financial oversight and control, will endeavour to build reliance on these systems.
- The UN recognises the need for the Commission to obtain an assurance that an adequate system of accountability is in place (accounting systems and procedures, reporting, including the oversight mechanisms), to acquire an understanding of that system, and to report to its own institutions on the proper use of European Community funds.
- As an integral part of this process, the Commission may periodically perform an on-site "walk through", with appropriate concrete examples, of these systems.
- The Commission may also request all relevant financial information (drawn from accounts and records) and seek clarifications of information, including verification of underlying documents.

Operational Principles

We are also agreed that the actual preparation and conduct of checks should be based on the following principles:

- Visits by Commission representatives should be planned and completed in a collaborative manner between UN staff and Commission representatives, keeping in mind the commitment of both the UN and the Commission to the effective and efficient operation of their agreement.
- Visits should be co-ordinated and liaised by a specific unit of the UN organisation, designated as focal point to ensure efficient conduct of these undertakings.
- These missions are to be planned ahead and procedural matters are to be agreed upon by the Commission and the UN organisation concerned in advance. These essentially include such matters as timing and scope of the mission, questions the missions wishes to raise with management of the organisation, nature of financial information, level of sampling, and whether missions are to visit headquarters locations and/or field offices.
- All staff involved should bear in mind their limited resources in terms of availability and capacity in handling these visits.
- During the mission, Commission representatives will principally work with the senior UN staff responsible for the systems in question, who will ensure that the mission as agreed can be properly implemented.
- As part of the process of obtaining an assurance and understanding of control systems, Commission representatives may wish to confer with the organisation's internal audit function in order to understand the overall operation of the internal audit function.
- As part of the process of obtaining an assurance and understanding of control systems, Commission representatives may also wish to confer with the External Auditors of the organisation concerned, in order to understand the overall operation of the external audit function.
- Subject to considerations of confidentiality, original documents shall be shown to the mission to facilitate the check process. For the most part, copies of such documents will not be taken by the mission. However, requests for copies of such documents will be considered by the UN on a case-by-case basis and will be determined by the organisation's management in consultation with, as necessary, its External Auditors.
- Initial and final meetings between the mission and the organisation's senior management are to be conducted at the start and end of the mission.
- The mission will offer to make a draft of its report available to the organisation's management for comments prior to final issuance.

**“AGREEMENT BETWEEN THE UNITED NATIONS AND THE EUROPEAN
COMMUNITIES**

- "1. It is agreed between the European Communities and the United Nations that for projects and actions administered by the United Nations and financed or co-financed by the European Communities, the following clauses shall be inserted in all conventions, contracts and financing agreements:
 - (a) Financial transactions and financial statements shall be subject to the internal and external auditing procedures laid down in the Financial Regulations, Rules and directives of the United Nations. A copy of the audited financial statements shall be submitted to the European Commission by the United Nations.
 - (b) The United Nations shall:
 - (i) keep financial and accounting documents concerning the activities financed by the European Communities and,
 - (ii) make available to the competent bodies of the European Communities, upon request, all relevant financial information, including statements of accounts concerning the programme/project, where they are executed by the United Nations or by subcontracting.
 - (c) In conformity with its Financial Regulation, the European Communities may undertake, including on the spot, checks related to the operations financed by the European Communities.'
2. As regards the clause (b) (ii), it is agreed that all relevant financial information shall be supplied to the European Communities. It is understood that the information shall be drawn from accounts and records and will be in a form which makes it possible for the Communities to verify the use to which its funds or contributions have been put. It is further agreed and understood that clarifications, including verification of specific documents, may be requested by the European Communities. In this event, the United Nations will request the United Nations Board of Auditors to respond as necessary.
3. As regards the checks to which reference is made in clause (c), it is understood that representatives of the European Communities will be given access to the site of the project and/or the headquarters of the United Nations Secretariat or relevant organisation or programme. UN staff will supply all relevant financial information and will explain to the European Communities representatives, with appropriate concrete examples, how the accounts are managed and the procedures used to ensure transparency and accuracy in the accounts and to guard against the misuse of funds and fraud. The purpose of on-the-spot checks is to allow officials from the Communities to be in a position to report to their own institutions and to the European Parliament on the implementation of projects and actions and whether value for money has been obtained.
4. This agreement will come into force on 1 January 1995 and will be reviewed after a period of twelve months in the light of the results obtained.
5. Each party to this agreement is to bear its own costs under the arrangements."