ANNEX

STAFF SALARIES, ALLOWANCES AND BENEFITS

Observations of the UNESCO Staff Union (STU)

OUTLINE

The purpose of this document is to inform the General Conference of the position of the UNESCO Staff Union (STU) on the report by the Director-General on staff salaries, allowances and benefits, which constitutes document 29 C/39, of 20 August 1997.

STU deplores the absence in the report of any information on the serious conflict which arose between the Director-General and staff following his decisions not to apply certain statutory salary adjustments, ignoring both the rules in force and the views of the Members of the Executive Board.

STU will show that the authorization requested by the Director-General in the draft resolution contained in paragraph 11 of document 29 C/39 does not come within his discretionary authority. In the unlikely event that authorization were given to him, it would open the door to arbitrary decisions, infringe the Statute of the International Civil Service Commission (ICSC) and take the Organization out of the common system for United Nations staff.

A. OBSERVATIONS OF THE UNESCO STAFF UNION ON THE BACKGROUND INFORMATION CONTAINED IN PART I OF DOCUMENT 29 C/39

1. The Director-General refused to apply the new Paris post adjustment index set by the International Civil Service Commission (ICSC) to come into effect on 1 May 1996, which was based on a cost-of-living survey carried out in Paris in November 1995 using a methodology approved by the United Nations General Assembly in the framework of the common system for United Nations staff. This decision affected staff in the Professional category and above (that is, Professional staff and directors). The UNESCO Staff Union (STU) recalls that post adjustments are '*added to the base salary in order to equalize the purchasing power of the remuneration of staff in the Professional category and above, of equal grade and step, serving in different duty stations, by adjusting for differences in the cost of living and in the exchange rate (…)*' (Item 2305.4 of the UNESCO Administrative Manual).

2. The Director-General subsequently decided not to apply the increase in the salaries of staff in the General Service and related categories (that is, General Service staff) stationed in Paris, which was the result of the movement over the 12 months preceding 1 January 1997 of the '*quarterly index of hourly wages for non-manual workers*' published by the French Ministry of Labour and Employment. STU recalls that '*Salaries of staff in the General Service category are determined in accordance with the Flemming principle by reference to the best prevailing conditions of service in the duty station concerned. For this purpose, surveys on these conditions are conducted at four or five year intervals by (…) ICSC in the different duty stations with the participation of representatives of the administration and of the staff. (…) Periodic (…) adjustments are made in accordance with the decisions of the General Conference between two salary surveys (…) on the basis of the (…) index*' mentioned above. (Items 2305.4 and 2310.6 of the Manual.)

3. In order to justify depriving the staff of its statutory salary adjustments, the Director-General claimed that ICSC had not followed its Rules of Procedure, which obliged it to consult him on post adjustments, and then that the payment of these salary adjustments would affect programme execution. STU considers that these ***justifications are inadmissible*** for three reasons:

(a) Post adjustments for Professional staff and Directors are calculated by ICSC on the basis of a survey in which representatives of the Director-General take part and on the basis of a methodology approved by the United Nations General Assembly. The new adjustment index is set periodically and is the result of mathematical calculations and not political negotiation. It has always been considered by ICSC and all the executive heads of organizations in the United Nations system (including the Director-General in 1990) as a routine question which is not covered by the special consultations provided for by the ICSC Rules of Procedure.

(b) The increase in salary for General Service staff, which is calculated by applying an external reference index in accordance with ICSC methodology, was authorized by the General Conference in 28 C/Resolution 28.2.

(c) It is not within the discretionary power of the Director-General to refuse to apply those salary adjustments. If it is not to be arbitrary, that power must be exercised in compliance of the legal texts in force and the decisions of the governing bodies. In fact, the Director-General's decisions violate, *inter alia*, Regulations 3.1 and 3.2 and Rule 103.2 of the

Staff Regulations and Staff Rules, whose authority was recognized in 1975 by the Executive Board by delegation from the General Conference, in 28 C/Resolution 28.2 of the General Conference and in 149 EX/Decision 6.6 of the Executive Board and, in the Universal Declaration of Human Rights, which proclaims 'the right to equal pay for equal work'. His decisions called into question UNESCO's membership of the United Nations common system, which is established in its Constitution (Article X) and sanctioned by the Agreement between the United Nations and UNESCO of 14 December 1946 (Article XII).

4. Document 29 C/39 makes no mention of the severely critical comments made by the Executive Board, ICSC and the Administrative Committee on Co-ordination (ACC). During the debate of the ***Executive Board at its 150th session*** in October 1996, of the 20 Members who spoke on item 6.2, 15 said that UNESCO should apply ICSC decisions, four expressed more qualified views, and only one sided with the Director-General (150 EX/SR.13). If the Executive Board took no formal decision on the issue, it is because its Members felt that their views had been made clear. Nevertheless, the Director-General persisted in his errors. At its August 1996 session, ICSC had already stated that the measures taken by the Director-General violated its Statutes, were jeopardizing the United Nations common staff system, and would demoralize UNESCO staff and give rise to higher costs for Member States (150 EX/INF.6, Annex). ***ACC***, which brings together the executive heads of the various United Nations organizations, did not support the initiative taken by the Director-General, and the Under-Secretary General for Administration and Management of the United Nations warned the members of ACC of the implications of differing levels of adjustment on the common system (ACC/1997/4 of 14 April 1997).

5. Document 29 C/39 completely passes over the grave conflict between the Director-General and nearly all the staff which lasted for over a year. Approximately 100 Professional staff members and 200 General Service staff members submitted protests against the measures taken by the Director-General, which were followed by ***detailed appeals*** to the Appeals Board of UNESCO. Even though the Director-General has gone back on his decisions and the payment of the salary adjustments has been made, certain appellants intend to continue the procedure by appealing to the Administrative Tribunal of the International Labour Organisation (ILOAT) on the grounds of the loss incurred as a result of the payment of one year's arrears without interest, and in view of the declarations of principle of the Director-General on the legality of his decisions and the need to regard his about face as an exceptional measure.

6. STU urged staff to take part in a number of protest meetings in 1996, and to go on ***strike*** on the morning of 26 February 1997. In addition, the fiftieth Council of the Federation of International Civil Servants' Associations (FICSA), which met in Paris from 3 to 7 February 1997, adopted a resolution condemning the Director-General's refusal to apply the statutory adjustments due to staff, and that condemnation was communicated to the Deputy Director-General of UNESCO by a FICSA delegation. Given that these litigious measures took place against the background of a staff policy which is persistently lacking in coherence, transparency and fairness, and raised grave questions concerning both the institution and UNESCO's programme and budget, STU invited staff to participate in a Round Table which was held throughout the day of 1 April 1997 to discuss a working document entitled *Managing UNESCO on the threshold of the twenty-first century* (STU-CAC/9.03.97). The results of the Round Table were published in a special issue of the newsletter *Opinion* entitled

Making UNESCO work published in June 1997, which can be made available to interested delegates at the General Conference. Working groups are continuing to reflect on these issues.

7. STU established a ***Crisis Action Committee*** to advise its Executive Committee on ways to inform and mobilize staff in order to cope with incoherent and arbitrary staff management. Many information and protest flashes have also been published.

8. Finally, document 29 C/39 does not even mention the work of the ***Joint Special Committee*** established by the Director-General for the purpose of seeking a negotiated solution to the conflict. The High-Level Task Force (HLTF) on staff costs and effectiveness, which was mentioned, played only a marginal role in view of the fact that most of its members participated in the Joint Special Committee. During the meeting held with staff at Headquarters on 17 February 1997, the Director-General indicated that the payment of salary adjustments attributable to the rise in the cost of living would give rise to a deficit in Part VII of the budget of $5,428,000, and that he refused to draw on programme funds. He announced the creation of a Joint Special Committee which would submit to him proposals on ways of financing the adjustments without drawing on programme funds. The Joint Special Committee, chaired by the Deputy Director-General, included the Assistant Director-General for Administration and Management, the Director of the Bureau of the Budget, the Comptroller, the Director of the Bureau of Personnel, the Director of the Office of Management Co-ordination and Reforms, four representatives of the Staff Union (STU), two representatives of the International Association of UNESCO Staff (AIPU) and two staff members drawn by lot from among the unaffiliated staff. The Committee submitted its conclusions and recommendations, which had been adopted by consensus, to the Director-General on 25 March 1997 after one month’s work. The Committee, noting that the potential deficit under Part VII would only be $1,558,100 and could easily be absorbed through savings in staff costs, proposed that all the statutory salary adjustments withheld should be paid in May 1997 and the arrears on those adjustments in September 1997. If that was done, the staff unions/associations undertook to encourage their respective members to withdraw their appeals and to refrain from claiming interest as the staff’s contribution to greater efforts to achieve savings.

9. As part of its participation in the Joint Special Committee, STU analysed expenditure funded from the staff budget and recent and planned use of Part VII of document 28 C/5 Approved in an attempt to determine the possible amount of the deficit which might result from payment of the statutory salary adjustments withheld. In its documents entitled *The true figures …* and *The true figures … continued*, STU drew attention to ***malfunctions connected with Part VII of the budget*** which were brought to light thanks to the work of the Joint Special Committee. These included excessive expenditure arising from the over-large complement of directors, temporary posts coming above the approved ceiling and fees and travel expenses of consultants and special advisers whose precise functions remained unclear. It noted, on the one hand, that certain expenses which should have been financed from other parts of the budget had erroneously if not intentionally been assigned to Part VII and, on the other hand, that other costs relating to inflation had been overestimated. If it had been used in accordance with the rules laid down by the governing bodies, Part VII should not have shown a potential deficit, but rather a potential credit of over $1.5 million.

10. In ***Administrative Circular No. 2023 of 25 April 1997***, the Director-General agreed to go back on his decisions and to pay the statutory salary adjustments withheld and the arrears retroactively and without interest but, contrary to the recommendation of the Joint Special Committee, he announced that the arrears would not be paid in September 1997, but only

before the end of the current biennium, without setting a precise date. It seemed to STU ethically unacceptable for the Director-General once again to postpone the date of payment of the arrears that had accumulated since 1 May 1996, in view of the fact that no interest was to be paid on the amounts due. At the request of the Chairman of the Appeals Board, the Director-General subsequently agreed that the arrears should be paid in September.

11. The decisions of the Director-General of which staff were notified in this Administrative Circular were preceded by a set of ***questionable and disturbing 'general considerations'***. The Director-General persisted in affirming that the measures he had taken were neither illegal nor arbitrary and therefore announced that he had decided to pay the statutory salary adjustments 'on an exceptional basis'. He was of the view that he should have been consulted on all ICSC decisions apart from the monthly duty station adjustments arising from changes in the rate of exchange. According to him, ICSC decisions on periodic adjustments resulting from increases in the cost of living were not binding. STU has no objection to the Director-General being consulted by ICSC before ICSC takes decisions on that or any other measure, even though the results of mathematical calculations made according to an approved methodology are not subject to negotiation. In any case, STU reiterates that within the framework of the legal texts in force the Director-General is obliged to apply ICSC decisions, unlike its recommendations, which must be submitted to and approved by the General Conference in order to be binding. The Director-General has no right to decide on his own authority, even on an exceptional basis, to award salary increases or decreases to all or a part of the staff.

12. The Director-General recalls in the Administrative Circular that, in his view, a good remuneration system should take into consideration the ***merits*** of individual staff members and thereby avoid across-the-board salary adjustments or increases. For its part, STU recalls that the system of remuneration of the United Nations common system essentially comprises two mechanisms. The purpose of one is to guarantee equivalent purchasing power to all staff members in all duty stations, and it takes the form of the periodic local adjustments made to salaries of staff members in the Professional category and above and the periodic revisions of the salary scales of the General Service category. The other is designed to take into account the respective merits of staff members and takes the forms of the within grade increments (commonly referred to as the steps within each grade) that are granted each year only to those staff members whose services are entirely satisfactory (Rule 103.4 of the Staff Regulations and Staff Rules). Even if merit bonuses were introduced into the common system in addition to the steps, such bonuses could not replace the periodic salary adjustments which are intended to compensate for inflation and to maintain identical purchasing power in all duty stations for equivalent functions and merit.

B. OBSERVATIONS OF THE STAFF UNION ON THE AUTHORIZATION SOUGHT BY THE DIRECTOR-GENERAL IN PART III OF DOCUMENT 29 C/39

13. In the conclusion of his report, and in particular in the draft resolution submitted to the General Conference, as is the rule, the Director-General seeks authorization to apply to staff any such measures as may be adopted either by the General Assembly of the United Nations or, by the powers vested in it, by ICSC. But the Director-General adds to this request a reservation which would grant him discretionary power not to apply such a measure - with respect to 'non-routine changes of conditions of service' - unless it 'can feasibly be implemented without diminishing programme resources'. With regard to form, it should be

noted that the expression ‘non-routine changes’ is not defined in the draft resolution and corresponds to no clear definition in the Staff Regulations and Staff Rules. With respect to substance, this extension of the discretionary power of the Director-General prompts grave objections, chief among which are the following:

(a) The power of determining whether a given measure may be implemented effectively without diminishing programme funds opens the door to arbitrary decisions. Poor staff budget management, for instance the creation of posts without observing the lapse factor or overloading the hierarchical structure of the Secretariat with Director posts might be compensated for by delaying salary adjustments, which would conveniently be designated as ‘non-routine changes of conditions of service’.

(b) The discretionary power being sought by the Director-General is incompatible with the Statutes of ICSC, which stipulate that certain decisions are recommendations which are submitted for the approval of the governing bodies of organizations, and that others are binding because they define the common system applicable to United Nations staff. In this way, salary adjustments intended to compensate for inflation and to maintain the principle of ‘equal pay for equal work’ across the system are not negotiable by individual executive heads of United Nations organizations. The authority of ICSC and its Statutes have been recognized by the governing bodies of UNESCO since 1975.

(c) UNESCO would be placing itself outside the common system applicable to United Nations staff and would have to devise complex and hence costly mechanisms to determine the conditions of employment of its staff members at all duty stations, in particular the 60-odd field offices. At its 151st session, the Executive Board, on the contrary, invited the Director-General to continue to co-operate with the joint machinery of the United Nations system (151 EX/Decision 5.1 A, para. 93).

14. STU is concerned about the proposals submitted by the Director-General in document 29 C/5, in which Part VII is dangerously under-funded. In document 29 C/5 the budgetary provisions needed to cope with foreseeable increases in costs arising from inflation and statutory salary adjustments, which are likely to be over $20 million, have been reduced to approximately $8 million. No provision has been made for cost increases which may occur during the second year of the biennium. As the Director-General does not consider himself bound by ICSC decisions, it is to be feared that he may refuse to pay statutory salary adjustments likely to arise in 1999 and thus plunge the Organization into a fresh crisis. It is for the Member States to specify whether they wish a fair and competitive system of remuneration to operate and UNESCO to remain within the common system for United Nations staff.

CONCLUSION

15. In view of the foregoing, *STU wishes to recommend to Member States that they:*

(a) ***instruct the Director-General to apply the measures concerning conditions of service decided by the General Assembly of the United Nations on the recommendation of ICSC or decided directly by ICSC itself;***

(b) ***set the staff budget and Part VII of the budget at a level which makes it possible to apply the rules in force in the United Nations system in respect of staff salaries, allowances and benefits.***