

Financial Procedures for the administrative expenses of the Commission

(as adopted on September 9, 1994 and amended on 8 December 2016)

The High Contracting Parties to Additional Protocol I to the 1949 Geneva Conventions for the protection of the victims of armed conflicts («Protocol I») having made the declaration provided for in article 90 of Protocol I («Parties») recognizing ipso facto and without special agreement the competence of the International Humanitarian Fact-Finding Commission («Commission»),

Expressing their sincere gratitude to the Swiss Government in its capacity as the depositary of the 1949 Geneva Conventions and the Additional Protocols for having covered one part of the Commission's administrative expenses in accordance with the arrangement agreed upon at the diplomatic conference convened to elect the members of the Commission on June 25, 1991,

Expressing equal gratitude to the States which have covered the other part of the administrative expenses under the arrangement referred to above,

Considering their Declaration contained in Annex A attached hereto to be an integral part of these Procedures,

Taking note of the Commission's Statement contained in Annex B attached hereto,

Taking further note with gratitude of the unilateral statement of the Swiss Federal Department of Foreign Affairs contained in Annex C attached hereto,

Acting under article 90 of Protocol I,

Adopt the present Financial Procedures («Procedures») regarding the Commission's administrative expenses:

1. Composition of the administrative expenses

The administrative expenses referred to in paragraph 7 of article 90 include the following costs:

- a. costs incurred by the Commission and its members in connection with meetings of the Commission and its working groups;
- b. costs incurred by the Commission and its members in connection with a request for an enquiry, not including expenses incurred by a Chamber;
- c. costs incurred by the Commission and its members in connection with initiatives the Commission may take to promote its services and to offer its good offices in accordance with paragraph 2 c) ii) of article 90;
- d. costs incurred by the Commission and its members in connection with their participation as observer in the sessions and the work of the United Nations General Assembly and other institutions.
- e. costs incurred by the Commission's secretariat in providing the Commission with the necessary administrative facilities for the performance of its functions;
- f. costs for auditing the Commission's book keeping.

2. Contributions by Parties

- a. Each Party shall pay a proportion of the Commission's administrative expenses determined in accordance with the scale applied by the United Nations to its regular budget and as exemplified with regard to the States currently being Parties in Annex D attached hereto. The proportions shall be adapted at the end of each year to take account of changes in the Parties which occurred in the course of that year, and any change in the scale.
- b. No later than February 1st of each year, the Commission shall request the Parties to remit their annual contributions to cover the expenses projected by the Commission for the same year.
- c. The annual contributions shall be due for payment on March 31st of each year, and shall be made in Swiss francs to an account held by the depositary of the Geneva Conventions and the Additional Protocols in the Commission's name, to be specified in the request to the Parties to remit said contributions.
- d. The first annual contribution of a Party whose declaration under article 90 has become effective after January 1, 1995, shall be due on January 1 of the year following the one during which said declaration entered into effect. Such Party shall, in addition, contribute to the Working Capital Fund according to the scale of contribution provided for in sub-paragraph a. heretofore.
- e. Any surplus income for a given financial year as well as any voluntary contributions to the coverage of the Commission's administrative expenses not specified by the donor to be intended for a certain purpose or activity shall be deducted from the Parties' contributions for the financial year following the one in which the accounts have been approved by the Commission pursuant to paragraph 7 of Annex B; any surplus expenditure shall be added thereto.
- f. Recognizing that, as a result of a request for an enquiry or an offer of good offices, the Commission may incur costs neither to be advanced by the requesting Party under paragraph 7 of article 90, nor projected by the Commission in its annual budget for the following year (s. paragraph 1 b. heretofore), and in order to enable the Commission to do the preparatory work necessary in connection with such a request at all times without delay, the Parties herewith accord the Commission an amount of at least 300'000 Swiss francs as a Working Capital Fund, contribution to which shall be due and payable within the same period as the first annual contribution due on January 1, 1995, in accordance with the scale of contribution provided for in sub-paragraph a heretofore. Subject to consultations provided for in Resolution 2 adopted in Berne on September 9, 1994, by the International Conference concerning the Financial Procedures for the administrative expenses of the International Humanitarian Fact-Finding Commission, the contributions required to replenish said Fund in the amount used in a given year shall be payable within the same period as the annual contribution for the following year. Interest gained shall accrue to the Fund and be the amount used first in accordance with this sub-paragraph; the requirement to replenish the Fund shall not apply to the interest thus used.

3. Auditing

- a. Auditing will be performed by private external auditors of good reputation appointed by the Commission for a renewable period of three years.
- b. Auditors shall annually conduct audits of the Commission. They shall, in particular, check the accuracy of the books, the statement of assets and liabilities, and the accounts. The audit shall be conducted in March of each financial year, which shall correspond to the calendar year.
- c. Auditors shall certify
 - that the annual financial statements submitted to them by the Commission are correct and in accordance with the books and records of the Commission;
 - that the financial transactions recorded in these statements have been effected in accordance with relevant rules and the statement of the projected expenses;
 - that the funds on deposit and on hand have been verified by certificates received directly from the depositories or by actual count.

- d. Auditors shall annually draw up a report certifying the accounts and setting forth the comments warranted by the audit. They may also make observations they deem necessary regarding the efficiency of the financial procedures, the accounting system and the internal financial control of the Commission.
- e. The report shall be submitted to the Commission and to the Parties not later than five months after the end of the financial year to which the accounts refer.

4. Amendment of Procedures

- a. The Commission may bring to the attention of the Parties potential problems which may necessitate the amendment of these Procedures.
- b. The depositary of the Geneva Conventions and the Additional Protocols shall convene the Parties in order to amend these Procedures,
 - (i) upon its own initiative, unless a majority of the Parties object or
 - (ii) if one third of the Parties so request.
- c. These Procedures may be amended by the majority of the Parties participating in the conference referred to in sub-paragraph b. heretofore.

5. Entry into force

- a. These Procedures shall enter into force on January 1, 1995.
- b. The period between the expiration on September 30, 1994, of the mechanism adopted on June 25, 1991, by the Parties having then made the declaration under article 90 on the one hand, and the entry into force of these Procedures on the other hand shall, for reasons of budgetary convenience, continue to be governed by said mechanism.

Annex A

Declaration by the Parties regarding the nature and composition of the administrative expenses of the Commission

1. Nature

Paragraph 7 of article 90 of Protocol I Additional to the 1949 Geneva Conventions setting forth the mechanism for the funding of the Commission's operations, distinguishes between two types of expenses:

- a) «*administrative expenses*»
which «shall be met by contributions from the High Contracting Parties which made the declaration under paragraph 2 of article 90, and by voluntary contributions» and
- b) «*expenses incurred by a Chamber*»
which shall be advanced by the Party or Parties requesting an enquiry and reimbursed to the extent of fifty percent by the Party or the Parties against which the allegations are made.

Hence, the term «administrative expenses» encompasses any and all expenses of the Commission not «incurred by a Chamber».

2. Compositions

The following commentaries refer to the individual items listed in paragraph 1. of the Procedures:

ad: Costs incurred by the Commission and its members in connection with meetings of the Commission and its working groups.

These costs include meeting room rentals, translation services, equipment rentals as well as the members' transportation costs (air travel in business class, ground transportation in first class), per diem (as fixed from time to time by the International Civil Service Commission of the United Nations for experts performing tasks in Switzerland) and fees for services rendered to the Commission calculated pro rata temporis on the basis of the monthly amount granted to a professional of the level D 1 within the United Nations System.

ad: Costs incurred by the Commission and its members in connection with a request for an enquiry, not including expenses incurred by a Chamber.

As stated under paragraph 1. b) heretofore, the Party(ies) to a conflict requesting an enquiry is (are) only obliged to advance the funds estimated to be required to cover the costs of a Chamber. Yet, before a decision may be taken by the Commission whether or not to establish a Chamber, certain tasks will have to be performed urgently by the Commission and/or its President which may involve considerable expenses. E.g., the Commission will have to determine its competence to enquire, the admissibility of the request at hand, as well as the amount to be advanced. The Working Capital Fund referred to in paragraph 2. f of the Procedures is chiefly created to cover all or part of these costs.

Furthermore, once the enquiry has been terminated and the Chamber dissolved, the Commission will have to prepare its report to the Parties under paragraph 5(a) of article 90. As these costs are not incurred by the Chamber, but by the Commission as a whole, they have to be considered «administrative expenses».

ad: Costs incurred by the Commission and its members in connection with initiatives to promote the Commission's services and to offer its good offices.

These costs include those resulting from efforts of the Commission to increase the international community's awareness of the Commission's nature and mandate and to lay the ground-work for a potential cooperation between the Commission and other international bodies.

The funds necessary to carry out these activities in any given year are difficult to anticipate; as a rule, however, they should not exceed 50'000 Swiss francs per annum.

ad: Costs incurred by the Commission's secretariat in providing the Commission with the necessary administrative facilities for the performance of its functions.

These costs include mainly the costs of the services of the Swiss Government's employees or its agents rendered in connection with the secretariat's functions as well as the costs incurred in connection with activities of the Commission as set forth in paragraph 1 b., c. and d. of the Procedures, and the costs for communication services at the Commission's seat, such as telephone and facsimile transmissions. Costs incurred by the secretariat for services rendered to a Chamber are considered to be «expenses incurred by a Chamber» to be paid by the parties to the conflict in question in accordance with paragraph 7 of article 90.

ad: Costs for auditing the Commission's book keeping.

These costs encompass the fees charged by a private auditing company in Switzerland for reviewing the book keeping by the Commission's secretariat and for preparing an annual report to the Parties.

Annex B

Binding Statement by the Commission regarding the administration of its administrative expenses

1. The financial administration of the Commission shall be conducted in accordance with the principles of economy and sound financial management.
2. The Commission's administrative expenses shall be limited to the utmost possible, particularly in connection with meetings.
3. The Budget of the Commission is the document by which the Commission forecasts and prospectively sets forth the receipts and expenditure of the Commission for one financial year. All receipts and all expenditure shall appear in the Budget.
4. The Budget shall constitute authorization to incur obligations and make payments up to the amounts and for the purposes approved.
5. The President of the Commission is authorized to make transfers between items and sub-items of up to 15 percent of items/sub-items. All such transfers must be reported by the President in connection with the financial statements mentioned in paragraph 8 hereinafter.
6. The financial year shall begin on January 1 and end on December 31.
7. The Budget shall be established and the accounts kept in Swiss francs, the currency of the host country.
8. On the basis of audit reports, the Commission shall signify its acceptance of the annual financial statements or take such other action as it may consider appropriate.
9. If, in the course of a financial year, the Working Capital Fund referred to in paragraph 2 f. of the Procedures amounts to less than 100'000 Swiss francs, the President of the Commission shall consult the Parties in order to afford them the opportunity to co-operate with him/her in making the arrangements necessary to keep the Commission operational. The President shall report on his actions to the Commission.
10. Each year the Commission shall submit to the Parties, for comments within a reasonable time-frame, the draft Budget for the following year.
11. Furthermore, the Commission shall submit to the Parties annual financial statements referred to in paragraph 8 heretofore reflecting the receipts and expenditure for the year preceding the one at the end of which the contribution request is submitted, as well as annual reports on its activities.

For the Commission,

The President

Annex C

Declaration by the Swiss Federal Department of Foreign Affairs with regard to the administrative costs of the Secretariat

The Federal Department of Foreign Affairs presents its compliments to the Representatives of the States invited to take part in the Conference convened on September 8 and 9, 1994, to adopt the Financial Procedures for the administrative expenses of the International Humanitarian Fact-Finding Commission («Commission») and has the honour to inform the Representatives of the following.

The Swiss Federal Council, in its capacity as the depositary of the Geneva Conventions and the Additional Protocols, is prepared to assume, for a renewable period of five years beginning on January 1, 1995, the costs of the salaries of the Swiss Government's employees or its agents equalling the percentage of their working time spent fulfilling the functions of the Commission's secretariat, not including the time spent rendering services to a Chamber of enquiry, as well as any and all costs for communication services incurred at the Commission's seat.

The Department avails itself of this opportunity to present to the Representatives the assurance of its highest consideration.

Berne, September 8, 1994