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UNITED NATIONS RELIEF AND WORKS AGENCY FOR
PALESTINE REFUGEES IN THE NEAR EAST

JOINT INSPECTION UNIT

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly his comments as well as those of the Commissioner-General of the United Nations Relief and Works Agency on the report of the Joint Inspection Unit entitled "Report on UNRWA" (A/38/143).

I. COMMENTS OF THE SECRETARY-GENERAL

1. The report of the Joint Inspection Unit (JIU) on UNRWA was prepared in response to General Assembly decision 36/462 of 16 March 1982 in which the Assembly requested JIU to "carry out a comprehensive review of the Agency's organization budget and operations with a view to assisting the Commissioner-General to make the most effective and economical use of the limited funds available to the Agency". The Secretary-General welcomes the decision of the General Assembly and is grateful to JIU for its positive and constructive report. It has been decided that the Commissioner-General's comments would be brought directly to the attention of the General Assembly; accordingly the Secretary-General will himself comment on only two of the recommendations contained therein, namely, recommendations 8 and 14.

Reserve for separation benefits

2. The reserve for separation benefits stood at \$52,857,576 on 31 December 1982 and will require further annual provisions ranging between \$5 million and \$8 million. The Secretary-General has taken note of the recommendation of JIU that liability for payment of separation benefits should be transferred to the regular

budget of the United Nations, and of the related comments of the Commissioner-General. The General Assembly will itself have to consider whether it wishes to place this contingent liability on the budget of the United Nations; this decision presupposes that the regular programme budget of the Organization would have to pay separation benefits in cases of "mass redundancy" (para. 115 of the JIU report) but not in cases of day-to-day severance payments.

Protection of refugees

3. The Secretary-General shares the concern expressed by JIU regarding the legal and physical protection of Palestinian refugees. It must be pointed out that, under international law, such protection is the primary responsibility of the territorial sovereign or, in the case of occupied territory, the occupying power. In the absence of a specific mandate from the international community and the consent of the sovereign or occupying power, an international organ cannot assume such responsibility, since it would lack both legitimacy and the means of carrying out this responsibility. As at present constituted, neither UNHCR nor UNRWA is mandated to provide legal and physical protection to Palestinian refugees in the region. In the specific case of UNHCR, the Statute of the Office of the United Nations High Commissioner for Refugees and the Convention Relating to the Status of Refugees of 28 July 1951 specifically excluded Palestinian refugees as "persons receiving protection or assistance from other organs or agencies of the United Nations" (chap. II, 7 (c), of the Statute and article 1, D, of the Convention). The function assumed by UNHCR under its Statute is that of providing international protection by means specified in chapter II, 8, of the Statute. The personal legal status of refugees is governed by the law of the country of domicile or residence (art. 12, 1, of the Convention).

II. COMMENTS OF THE COMMISSIONER-GENERAL ON THE JOINT INSPECTION UNIT STUDY OF UNRWA

4. UNRWA welcomed the decision of the General Assembly to ask the Joint Inspection Unit to review the Agency's organization, budget and operations. It was the opinion of the Commissioner-General that such a review could be of great help to the Agency. Having now been invited to offer comments on the report of JIU, the Commissioner-General is very pleased to state that, in his view and that of his colleagues, the report is both constructive and helpful. The Inspectors have put considerable time and effort into it, for which the Commissioner-General expresses his appreciation.

5. Understandably in a report of this comprehensive nature, there are a number of minor errors and misunderstandings in the text, but for the most part these are not material to the issues discussed. However, the Commissioner-General believes a few of the recommendations in section V of the report (Conclusions and recommendations) require qualification. The comments below are confined to those recommendations.

Recommendation 2: In accepting this recommendation, the Commissioner-General would merely point out that UNRWA would need the assistance of appropriate organizations in the United Nations system in

conducting the feasibility study as well as in implementing any positive result it yields.

Recommendation 4 (i): The various suggestions in this recommendation are welcome but the Commissioner-General would disagree with the suggested transfer of two architectural technicians from the Technical Office in Vienna to two of the five field offices. The present Technical Office staff are fully committed to Headquarters drawing office work and cannot be spared. He would agree that better site supervision of building construction and repair is needed but this must come from the provision of additional site engineers, rather than drawing office staff.

Recommendation 6 (iv): The Commissioner-General interprets this recommendation to require a greater allocation of resources to the construction and maintenance of both Agency installations and refugee dwellings, which he accepted. This is clear from the text (paras. 91 and 92).

Recommendation 7: The Commissioner-General accepts the main findings regarding budget presentation and processing, especially those concerning closer co-ordination between major donors and broader-based financial support for UNRWA, but he is very doubtful about the merit of a second pledging conference in May of each fiscal year (para. 112). This could even be counter-productive to the efforts of UNRWA to raise revenue. The experience to date has shown that a final financing picture in May is unrealistic, the majority of supplementary pledges being received later. It is noted, however, that the idea of a second pledging conference is put forward as a suggestion and is not the subject of a recommendation.

With regard to Recommendation 7 (iii), the Commissioner-General agrees that a considerable expansion of the budget is needed as regards both detail and explanatory notation, but he does have reservations about describing schools and other individual Agency establishments (of which there are over 1,000) as cost centres, as envisaged in paragraph 109. The precise level of accounting detail appropriate is a matter on which he would not wish to be bound at this stage.

Recommendation 8: The Commissioner-General fully endorses this recommendation, which, as the report points out, he advocated at the thirty-sixth session of the General Assembly.

Recommendation 9 (ii): The Commissioner-General agrees that work should be done towards improving the level of academic qualification and Arabic knowledge of the Agency's international staff, but the discussion of academic qualification requirements (paras. 124, 145 and 146) inadequately reflects UNRWA's nature as an operating rather than an advisory agency; its work-force includes many occupations for which high academic qualifications are not required. With this reservation, however, the recommendation is welcome.

Recommendation 12 (ii): The Commissioner-General accepts the role envisaged for the Management Division, and a close association of the Audit Division with it. He shall give consideration to the combination of these two Divisions (as seems clearly intended from para. 152) but would not wish to be committed to total integration at this stage.

Recommendation 13: The position on the relocation of Agency headquarters is, of course, governed by General Assembly resolution 37/120 K. Pending implementation of that resolution, the Commissioner-General will review again the possibility of transferring certain headquarters functions from Vienna to Amman, but cannot agree to the particular transfers proposed in paragraphs 34 and 152.

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