

**Operationalization of the Advisory Centre on  
International Investment Dispute Resolution**

**Financing of the Advisory Centre and  
the entry into force of the Statute**

**I. Introduction**

1. Article 3(1) of the Statute foresees that the Advisory Centre shall operate in a manner that is effective, affordable, accessible and financially sustainable. These principles ensure the Centre's long-term viability and its ability to fulfil its mandate. Sufficient funding is required to maintain high-quality services and operational efficiency. Affordability and accessibility are meant to enable equitable participation, particularly for LDCs, necessitating carefully structured contributions and subsidies of fees. Financial sustainability ensures that the Centre could reliably meet its obligations and allows for strategic planning and resilience against economic fluctuations. Together, these principles call for a financial framework that meets the interests and needs of Members and for the Centre to remain functional and inclusive.
2. The financial framework for the establishment and sustainable operation of the Advisory Centre is crucial. The determination of member contributions, methods of payment, and thresholds for membership and contributions are essential considerations (see [A/79/17](#), para. 158). These aspects are pivotal both from the perspective of States contemplating membership and from the perspective of the Centre's effective operation.
3. Document [AC/OP/BD.10](#) provides the sample budget figures for the Centre ranging from USD 3.31 million to USD 5.54 million ([AC/OP/BD.10](#), para. 46).
4. The following lists the relevant articles of the Statute.

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***Article 3 - General principles***

- 1. The Advisory Centre shall operate in a manner that is effective, affordable, accessible and financially sustainable.*
- 2. The Advisory Centre shall be independent and free from undue external influence, including from its donors.*
- 3. The Advisory Centre shall, as appropriate, cooperate with international and regional organizations and coordinate its activities to ensure the efficient use of its resources.*

***Article 6 - Technical assistance and capacity-building***

- 1. ...*
- 2. The Advisory Centre may engage other persons or entities in providing the services in paragraph 1.*
- 3. In accordance with the regulations adopted by the Governing Committee, the Executive Director may allow:*
  - (a) Non-Members to participate in the activities organized by the Advisory Centre pursuant to paragraph 1; and*

- (b) *Other persons or entities to participate in the activities pursuant to paragraph 1, subparagraphs (c) to (e). When the Governing Committee assigns any other functions in accordance with paragraph 1, subparagraph (f), it shall also determine the extent to which the Executive Director may allow other persons or entities to participate in those activities.*

*4. The regulations adopted by the Governing Committee shall require the Executive Director to set appropriate fees for the participation of non-Members, other persons or entities, and include criteria for allowing participation, such as whether it contributes to the objectives of the Advisory Centre, whether it creates any conflict of interest and the resource implications for the Advisory Centre.*

**Article 7 - Legal advice and support with regard to international investment dispute proceedings**

*1. ...*

*2. The provision of services in paragraph 1 is subject to the resources available to the Advisory Centre.*

*3. In providing the services in paragraph 1, the Advisory Centre shall, in principle, give priority to Members listed in [annex I], followed by Members listed in [annex II], in accordance with the regulations adopted by the Governing Committee. In the event that requests are received from Members listed in the same annex, priority shall generally be given to the Member that requested the services first.*

*4. The Executive Director may allow a non-Member to request the services in paragraph 1 in accordance with the regulations adopted by the Governing Committee. Whether the requesting non-Member may benefit from the services and the extent of the services to be provided by the Advisory Centre shall be determined by the Governing Committee. In making the determination, the Governing Committee shall consider whether allowing a non-Member to benefit from the services contributes to the objectives of the Advisory Centre, whether the non-Member is in the process of becoming a Member, whether it creates any conflict of interest and the resource implications for the Advisory Centre.*

**Article 8 - Financing**

*1. The operation of the Advisory Centre shall be funded by the contributions of Members, the fees for services provided by the Advisory Centre and voluntary contributions.*

*2. Each Member shall make financial contributions in accordance with [Annex IV]. If a Member is in default of its contributions, the Governing Committee may decide to limit or modify its rights or obligations in accordance with the criteria established in the regulations adopted by the Governing Committee.*

*3. The Advisory Centre shall charge fees for its services in accordance with the regulations adopted by the Governing Committee:*

*(a) Services in article 6, paragraph 1, shall be provided at no cost to Members. The fees to be charged to non-Members, other persons and entities shall be determined by the Executive Director in accordance with the regulations adopted by the Governing Committee;*

*(b) The fees to be charged by the Advisory Centre for services in article 7, paragraph 1, shall not exceed the amount necessary to recover its costs. The fees to be charged to Members listed in [Annex I] shall be lower than those charged to Members listed in [Annex II], which shall be lower than those charged to Members listed in [Annex III]. The fees to be charged to non-Members shall be equal to or*

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*higher than those charged to Members listed in [Annex III], unless determined otherwise by the Governing Committee.*

*4. The Advisory Centre may receive voluntary contributions, whether monetary or in-kind, from Members, non-Members, international and regional organizations, and other persons or entities in accordance with the regulations adopted by the Governing Committee, provided that the receipt of such contribution is consistent with the objectives of the Advisory Centre, is reported in the annual report, and does not create any conflict of interest or otherwise impede the independent operation of the Advisory Centre.*

*5. The Advisory Centre may set up trust funds for the purposes of receiving and managing the financial contributions and the fees referred to in paragraphs 1 to 4.*

*6. The budget and expenditure of the Advisory Centre shall be subject to internal and external audit.*

***Annex [IV] - Scale of minimum contributions***

	<i>Annual contribution</i>	<i>Multi-year contribution</i>	<i>One-time contribution</i>
<i>Members listed in [Annex I]</i>			
<i>Members listed in [Annex II]</i>			
<i>Members listed in [Annex III]</i>			

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## **II. Financing the Advisory Centre's operation**

5. Article 8 of the Statute provides that the budget of the Advisory Centre would be funded by (i) contributions by Members; (ii) fees charged for services; and (iii) voluntary contributions. In short, the Centre would have three streams of income, referred to in this document as **(i) membership dues, (ii) fees for services and (iii) donations**. The terminology aims to distinguish between membership dues, which are obligated under the Statute for Members (article 8(2)), and voluntary contributions, which are anticipated from Members, non-Members as well as international and regional organisations (see article 8(4)).

6. At the first AC-OP meeting, it was mentioned that the fees to be generated by article 7 services were expected to be a key source of income for the Advisory Centre ([A/CN.9/WG.III/WP.251](#), para. 35). While this might realize when the Centre is fully operational, it is unlikely to be the case during its initial years of operation. It is also difficult to estimate the amount of donations that the Centre would receive. Therefore, it would be useful to reach a working assumption on what percentage of the annual budget should be borne by membership dues during the first three to five years of the Centre's operation. The figures in this document have been calculated on the basis that that membership dues should cover the almost the entirety of the Centre's budget.

7. The sample budget figures in document [AC/OP/BD.10](#) foresees two types of costs: (i) installation costs and (ii) recurring operation costs. The following assumes that the installation costs would be borne entirely by the host state(s) as donations, while the recurring operation costs would be shared among the Members through membership dues.

## 1. Membership dues

8. Under the Statute, the amount of contribution to be made by each Member is to be set out in Annex IV of the Statute, subject to possible adjustments by the Governing Committee. Article 15(4) states that the Governing Committee shall endeavour to adopt amendments to Annex IV by consensus. Annex IV, currently titled “scale of minimum contribution”, was prepared based on the assumption that Members in each group would be paying the same fixed amount. At the first AC-OP meeting, it was said that indicating the fixed amount would allow potential Members to be clearly informed of the financial obligations of becoming a Member ([A/CN.9/WG.III/WP.251](#), para. 24).

9. At that meeting, several options on how the budget could be allocated among the Members were considered. As an alternative to having a fixed amount for each group of Members, it was suggested that the budget could be distributed among the Members through a formula to be developed.

10. With the understanding that the Advisory Centre were to be established within the United Nations system, the advantages of relying on the United Nations scale of assessments to determine the Members’ annual contributions were underlined. The United Nations [scale of assessments](#), prepared on a three-year basis and taking into account the capacity to pay, was said to provide a predictable reference point, while allowing for necessary adjustments and flexibility. It was said that the introduction of minimum and maximum percentages of the budget (or a fixed amount) could cater for balance among the Members and reflect the evolving needs of the Centre ([A/CN.9/WG.III/WP.251](#), para. 25). It would be useful to confirm whether the scale of assessment of the United Nations should be used as the reference point (see para. 21 below on the use of UPU units).

### *Assessed contributions based on the United Nations scale of assessment*

11. The secretariat considered a number of formulas to estimate the assessed contribution of Members based on the UN scale of assessment for the contributions of Member States to the regular budget of the United Nations for 2025, 2026 and 2027.<sup>1</sup>

12. The table below was prepared based on an assumption that the Centre could begin operation with 20 Members. For this purpose, 8 States that have expressed an interest in hosting the Centre were considered, along with 12 States drawn from a mix of 3 developed, 4 developing and 5 LDCs, respectively assigned a scale of assessment of 3, 0.5 and 0.001. The actual number of Members required for the entry into force of the Statute would impact on the formulas below (for example, if more Members were required, both the maximal and minimal caps % could be lowered). The percentages in the table below can be applied to the budget figures in [AC/OP/BD.10](#) to calculate the anticipated contributions of the Members.

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<sup>1</sup> See Resolution [A/RES/79/249](#), adopted by the General Assembly on 24 December 2024.

State	UN assessed contribution	AC assessed contribution	Maximal Cap 10%	Maximal Cap 20%	Minimal Cap 1%	Minimal Cap 5% - with exception for LDCs	Minimal cap 1%, Maximal cap 20%
Armenia	0.007	0.0452	0.236	0.053	1.000	5.000	1.000
Côte d'Ivoire	0.024	0.2923	1.522	0.343	1.000	5.000	1.000
Democratic Republic of the Congo	0.01	0.0646	0.336	0.076	1.000	0.039	1.000
Egypt	0.182	1.1761	6.123	1.380	1.000	5.000	1.000
France	3.858	24.9305	10.000	20.000	22.591	14.985	20.000
Ghana	0.025	0.1616	0.841	0.190	1.000	5.000	1.000
Paraguay	0.023	0.1486	0.774	0.174	1.000	5.000	1.000
Thailand	0.341	2.2036	10.000	2.585	1.997	5.000	2.075
State A	0.001	0.0065	0.034	0.008	1.000	0.004	1.000
State B	0.001	0.0065	0.034	0.008	1.000	0.004	1.000
State C	0.001	0.0065	0.034	0.008	1.000	0.004	1.000
State D	0.001	0.0065	0.034	0.008	1.000	0.004	1.000
State E	0.001	0.0065	0.034	0.008	1.000	0.004	1.000
State F	0.5	3.2310	10.000	3.790	2.928	5.000	3.042
State G	0.5	3.2310	10.000	3.790	2.928	5.000	3.042
State H	0.5	3.2310	10.000	3.790	2.928	5.000	3.042
State I	0.5	3.2310	10.000	3.790	2.928	5.000	3.042
State J	3	19.3861	10.000	20.000	17.567	11.652	18.252
State K	3	19.3861	10.000	20.000	17.567	11.652	18.252
State L	3	19.3861	10.000	20.000	17.567	11.652	18.252
	15.475	100	100	100	100	100	100

13. The second column indicates the UN scale of assessment for each Member, which adds up to 15.475.

14. The third column then proportionally distributes the budget of the Centre (100) among the 20 Members based on the UN scale of assessment. The same ratio is maintained. In other words, State J, which contributes 3 out of 15.475 (19.39%), is expected to contribute 19.39% of the total budget. In this formula, if there are very few Members with a higher scale of assessment, their burden could be quite great (for example, France, States J, K and L would contribute almost 83% of the Centre's budget).

15. Therefore, the fourth and the fifth column introduce a maximum percentage (respectively 10% and 20%) that each Member would be expected to contribute to the Centre's budget.

16. In the fourth column, the contributions from France, States J, K and L (as they exceed 10% in the third column) are capped at 10% (40% of the budget in total), with the remaining 16 Members responsible for the remaining 60%. As a consequence, the contribution of Thailand and States F, G, H and I also increase but is eventually capped at 10%. In this formula, 9 Members would contribute 90% of the budget.

17. In the fifth column, the contribution from France (which exceeds 20% in the third column) is capped at 20% of the budget, with the remaining 19 Members responsible for the remaining 80%. Similar to above, the contribution of States J, K and L increase but is eventually capped at 20%.

18. The sixth column introduces a minimum contribution for all Members and increases the contribution rate of Armenia, Cote d'Ivoire, Democratic Republic of the Congo, Egypt, Ghana, Paraguay, States A to E to 1% (11% in total). The remaining 89% is proportionally shared among the remaining 9 Members, with the contribution of each Member being slightly lower than the second column.

19. The seventh column introduces a minimum contribution of 5% for all Members, except those categorized as LDCs. This increases the contribution rate

of Armenia, Cote d'Ivoire, Ghana, Paraguay, Thailand and States F to I to 5% level (45% in total). The remaining 55% is proportionally shared among the remaining 11 Members, with 4 Members (France, States J, K and L) covering 49.9%.

20. The last column introduces a minimum contribution of 1% for all Members (11 in total) and caps the maximum contribution at 20% (France). The remaining 69% of the budget is proportionally distributed among the remaining 8 members.

21. In this regard, it may be useful to refer to the experience of the Permanent Court of Arbitration (PCA) with income streams quite similar to the Advisory Centre. The budget of PCA comes from the contributions of its Contracting Parties, income through arbitration cases and voluntary contributions. The annual contributions by Member States are based on a scale of units developed by the Universal Postal Union (UPU). Each UPU unit has a fixed monetary value determined annually in the PCA's budget, and a State's total contribution is calculated by multiplying the number of units by this amount. Each State voluntarily selects a contribution class, corresponding to a certain number of UPU units, broadly reflecting its economic capacity—with wealthier countries contributing more units and less developed countries fewer. Since 2022, Contracting Parties have been encouraged to align their contributions with, or exceed, the UN scale of assessments, thereby promoting greater equity and sustainability.

#### *Equitable access for LDCs*

22. At the first AC-OP meeting, ways to alleviate the burden of LDCs in becoming Members of the Advisory Centre and to encourage their timely joining were also discussed. This included a possible exemption of the annual contributions, the levying of a one-time access fee which would allow them to benefit from lower service fees, and direct support from voluntary contributions received in the trust fund established for supporting LDCs ([A/CN.9/WG.III/WP.251](#), paras. 10 and 38).

23. As noted above, several approaches to facilitate LDC's participation could be considered:

- Reduced membership dues or exemption;
- Admission fee in lieu of membership dues – Instead of the regular membership dues, LDCs could be charged a one-time fee to access the services of the Centre for a specified period (for example, 10 years)
- Subsidies – The membership dues of LDCs could be fully or partially subsidized (see paras. 42-44 below)

#### *Budget cycle and payment schedule (annual, biannual, or one-off)*

24. At the first AC-OP meeting, it was suggested that in the early stages of the operation, the budget cycle should not be too long (one or two years) to provide flexibility in the Centre's operation ([A/CN.9/WG.III/WP.251](#), para. 37). If the budget is prepared annually, the assessed contribution of each Member could also be calculated every year. This would allow for adjustments as the number of the Members increases in the early stages of operation. However, this may not bring clarity on the financial obligations of Members during the same period.

25. At the first AC-OP meeting, discussions were held about Members making a "one-time contribution" in lieu of their "annual" membership dues ([A/CN.9/WG.III/WP.251](#), para. 39). The possibility of membership dues being paid "every two years" or for a longer period (multi-year contribution) was also considered ([A/CN.9/1161](#), para. 100).

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26. Payment of annual or multi-year membership dues provide a predictable and consistent income stream for the Centre, ensuring stable financial support for its operations. However, these membership dues require regular administrative efforts to manage collection and compliance when payments are due. It may also be difficult to estimate the assessed contribution of each Members in the near future as the budget is likely to change as well as the composition of the Members. Nonetheless, payment of multi-year membership dues (for example, of 5 to 10 years) could provide certainty about the income stream, while financial commitments of the Members are preserved. In light of these benefits, the memberships dues may be lowered for such type of payments (as interests also accrue) or be fixed for that period of time.

27. A one-time contribution (a lump-sum payment of the membership dues) could generate significant capital upfront, offering immediate funding for long-term investments and simplifying administrative processes. For Members that opt for this option, the one-time contribution would replace annual membership dues and they would no longer be required to make such payments. As such, it should be distinguished from donations. Such a one-time contribution could minimize recurring administrative tasks but might introduce challenges related to sustainability in the future and equity in funding over time. For example, a formula would need to be developed to calculate the expected one-time contribution by Members that would ensure fairness among them.

28. One possible way of combining the two approaches would be to allow Members to make any amount of contributions, from which (including any interest that arises from the contribution) the assessed membership dues are deducted. This would allow Members to make payments based on their fiscal needs, could ensure that the Centre has the necessary capital early on to plan its activities, and ensure that the contribution scheme is applied equally to all Members regardless of their payment schedule.

#### *Payment of membership dues in instalments*

29. It would be ideal if Members are obliged to pay their membership dues prior to the budget cycle or very early in the cycle. For those with tighter fiscal constraints or irregular budget cycles, offering the possibility to pay the membership dues in instalments could be sought. However, instalment payments might lead to increased administrative burdens. In particular, managing and tracking multiple payments across various timelines could require additional resources.

30. Establishing a clear and standardised payment structure at the outset would enhance predictability and reduce the complexity of managing different payment schemes. Furthermore, regular monitoring and reporting mechanisms in view to adapt payment options could be considered. In this context, the role of the Governing Committee and the Executive Director in making related decisions may be discussed.

## **2. Fees for services**

31. It was generally acknowledged that the Advisory Centre should charge for its services to cover its budget, which could further ensure financial sustainability.

#### *Article 6 services (Technical assistance and capacity-building)*

Members listed in Annex I	Free of charge
Members listed in Annex II	Free of charge
Members listed in Annex III	Free of charge



Non-Members	Fee to be determined by the Executive Director
Other persons or entities	Fee to be determined by the Executive Director

32. It is assumed that services falling under article 6 would be provided free of charge to Members.

33. Article 6(4) foresees the possibility for non-Members<sup>2</sup> and other persons or entities to participate in technical assistance and capacity building activities of the Centre. Considering that the types of services could vary to a large extent (for example, participation in a webinar, access to the repository of resources, or the holding of a one-week in-person workshop), it is assumed that the Executive Director would determine the fees to be charged on a cost recovery basis, with the fees being higher than those of Members. However, the fees for non-Members could be lower than those charged to other persons or entities. The fees to be paid by non-Members, or other persons or entities could be another element to consider in deciding whether they should be able to benefit from these types of services.

*Article 7 services (Legal advice and support with regard to international investment dispute proceedings)*

Members listed in Annex I	Retainer fee of USD 5,000 + USD 250 per hour
Members listed in Annex II	Retainer fee of USD 5,000 + USD 400 per hour
Members listed in Annex III	Retainer fee of USD 5,000 + USD 550 per hour
Non-Members	Same as Members listed in Annex III unless determined otherwise by the Executive Director

34. The table above assumes that services falling under article 7 would be provided based on a non-refundable retainer fee of USD 5,000 and additional fees to be charged on an hourly rate. The retainer fee could cover the initial costs relating to the assessment of the case and could also deter non-meritorious requests for assistance.<sup>3</sup> The hourly rate is higher than the fees charged by the ACWL,<sup>4</sup> which takes into account the rather complex nature of investment disputes as well as the market rate for such services. It also takes into account the hourly fees received by ICSID tribunal members.<sup>5</sup> While the aim of the Centre is to assist developing countries, it is also assumed that the fees to be charged would be a significant source of the Centre's budget to help ensuring sustainability of its operation ([A/CN.9/WG.III/WP.251](#), para. 35, see para. 39 below).

<sup>2</sup> A "non-Member" refers to a State or a regional economic integration organization that is not a Party to the Statute.

<sup>3</sup> In comparison, the fee for lodging requests for institution of conciliation or arbitration proceedings under the ICSID Convention or the ICSID Additional Facility Rules or for applying for an annulment of an arbitral award is USD 25,000. An administrative charge of USD 52,000 is levied by the Centre upon the registration of a request for arbitration, conciliation or post-award proceeding and annually thereafter. See ICSID Schedule of Fees (2023), paras. 1 and 4.

<sup>4</sup> For support in WTO dispute settlement proceedings, ACWL charges either by hours or by case. For the latter, estimates are offered for each phase. An hourly basic rate is set at USD 250, with discounts provided to LDCs (90%) and by categories. Available at [https://www.acwl.ch/wp-content/uploads/agreement\\_estab\\_acwl\\_annex\\_iv.pdf](https://www.acwl.ch/wp-content/uploads/agreement_estab_acwl_annex_iv.pdf).

<sup>5</sup> Members of Commissions, Tribunals, ad hoc Committees, Fact-Finding Committees and mediators in ICSID proceedings receive a fee of USD 500 for each hour of work performed in connection with the proceeding, including each hour spent participating in hearings, sessions and meetings. Members also receive an hourly fee of USD 250 when travelling for hearings, sessions or meetings and are entitled to a per diem of USD 900 when overnight lodging is required. See ICSID Memorandum on the Fees and Expenses (2022) available at <https://icsid.worldbank.org/services/cost-of-proceedings/memorandum-fees-expenses/2022>.



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35. Article 7(5) foresees a situation where a non-Member requests the services listed in article 7, the procedure for which is to be detailed in a regulation adopted by the Governing Committee. The decision whether such services would be available to the requesting non-Member falls within the authority of the Governing Committee (including whether they could apply to become a Members to benefit from the lower rate). However, it is assumed that the fees to be charged to that non-Member (regardless of its level of development) would be the same as, or higher than, those charged to Members listed in Annex III. Discretion is given to the Executive Director to adjust the fees based on the individual circumstances (for example, if the State is in the process of becoming a Member).

36. The fee structure for article 7-types services is just one example. It may be possible to charge different fees for the different types of services listed in article 7(2). For example, the fees for mediation and other types of amicable settlement might be set at a lower rate, which could further incentivise the use of non-adversarial means and enhance the role of the Advisory Centre with regard to such means ([A/CN.9/1044](#), para. 39). Another possibility is to charge different fees based on the phase or stage of each case, including a flat-rate fee for some of the services (for example, assistance in the appointment of a mediator or an arbitrator, or of external counsel, see article 7(2)(b) and (e)). Depending on whether the Advisory Centre would provide services with regard to post-award remedies (including annulment, set-aside, recognition and enforcement), a separate fee schedule could be envisaged for such a phase.

37. In this regard, participants may wish to discuss how to ensure that claimants do not benefit from the reduced rates (through cost allocation) as the reduced rates are solely to support LDCs and developing countries.

*Sample fees to be charged to LDC*

38. According to the Note on the costs and financing of an Advisory Centre on International Investment Law,<sup>6</sup> the number of hours per case per year varies between 1,850 and 3,700 hours. Assuming the hourly rate is \$250, the total annual cost per case would range from \$462,500 to \$925,000.<sup>7</sup> Considering that the amount may still be burdensome to certain States, it may be necessary to consider introducing a cap (either yearly or by case) on the amount to be charged.

*Possible income generated from article 7 services*

39. Assuming that a staff member could bill three-fourths of their working time in an 8-hour workday, this means they would be effectively billing 6 hours per day (8 hours x 3/4). Over the course of a year, assuming 188 working days, each staff member would accumulate 1,128 billable hours (188 x 6) for all cases he or she is involved in. For a substantive office with 5 staff members (see scenario 2 in [AC/OP/BD.10](#)), the total billable hours per year could be 5,640 hours (1,128 x 5). If the Legal Advisory Office had 10 staff members (see scenario 3 in [AC/OP/BD.10](#)), the total billable hours would double to 11,280 hours (1,128 x 10). At a billable rate of USD 250 per hour, the total income generated would be for an office with: (i) 5 staff members: USD 1.41 million per year (the staffing cost for scenario 2 is USD 2.26 million) and (ii) 10 staff members: USD 2.82 million per year (the staffing cost for scenario 3 is USD 3.04 million).

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<sup>6</sup> See

[https://uncitral.un.org/sites/uncitral.un.org/files/aciil\\_note\\_on\\_costs\\_financing\\_24\\_august\\_2020\\_final\\_updated.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/aciil_note_on_costs_financing_24_august_2020_final_updated.pdf).

<sup>7</sup> Ibid., para. 34.

### 3. Donations

40. Donations (voluntary contributions as foreseen under article 8(4) of the Statute) would need to be managed with due regard to article 3(2) and the principle of independence from undue external influence (including from donors). This would ensure that donations do not compromise the Centre's impartiality and other key objectives.

41. It is expected that the host State of the Centre's headquarters and regional office(s) would make donations to cover the installation cost and some recurring costs of the Centre (A/CN.9/WG.III/WP.251, para. 15), in particular rental and maintenance related costs (AC/OP/BD.10, para. 34).

42. In addition, article 8(5) foresees the setting up of an endowment fund or a trust fund for the purposes of receiving and managing these donations. While it is premature to estimate the amount of expected donations, a substantive amount would be required for the endowment fund to create interest that can be a stable source of income. The experience of the ACWL has shown that its endowment fund did not provide the reliable source of income as initially anticipated, and as a result, the ACWL had to rely on further voluntary contributions. Alternatively, the donations themselves (and not the interest that arises therefrom) could be used to cover parts of the budget spendings of the Centre.

43. These questions would need to be considered in the context of ensuring financial sustainability. While relying on donations in the early stages of operations may allow for a quick start-up of the Centre, over-reliance on donations could impact the stability and harm the operational independence of the Centre. In this context, maintaining a clear separation between donations and core budget of the Centre could safeguard its financial and operational resilience.

44. The extent to which donations would impact membership dues would need to be carefully considered. While it is expected that increased amount of donations could reduce the membership dues, donations are likely to fluctuate. Furthermore, donations geared towards the needs of LDCs or developing countries should not result in the reduction of membership dues for other Members. There are various means to avoid such unintended consequences, for example, by earmarking donations to specific projects (capacity-building programs for LDCs) or by utilizing the endowment funds to subsidize certain Members in paying their membership dues (see para. 23 above). This could ensure that donations supplement rather than replace membership dues, which would continue to fund the core activities of the Centre.

45. To ensure that donations (and potentially membership dues of Members) qualify for official development assistance (ODA) under Target 17.2 of the Sustainable Development Goals, it is crucial that the contributions are directed towards promoting the economic development and welfare of developing countries, in line with the criteria set by the Development Assistance Committee (DAC) of the OECD. To confirm eligibility, it may be necessary to involve and consult the DAC beforehand to ensure that donations meet the ODA requirements. This consultation could clarify whether the donations align with the intended development goals and qualify for inclusion in ODA reports. If they do not qualify as ODA, this may discourage donors from contributing, particularly those with commitments to reach specific ODA targets. In the same context, it would be useful to ensure that the Centre is included in the DAC list of ODA-eligible international organizations.<sup>8</sup>

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<sup>8</sup> <https://www.oecd.org/en/topics/oda-eligibility-and-conditions/dac-list-of-oda-recipients.html#oda-eligible-international-organisations-list>

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46. To strengthen the Centre's financial sustainability, a structured approach to fundraising and donations should be developed. This includes identifying specific fundraising projects that align with the Centre's objectives and ensuring that donations are strategically managed. It would be useful to have a staff member dedicated to overseeing fundraising efforts of the Centre.

### III. Thresholds for the entry into force

47. The threshold for the entry into force of the Statute (article 13) is important because it ensures a minimum level of participation and commitment from Members before the Statute can come into effect. By requiring a certain number of ratifications, the financial contributions of those States could fulfil the necessary funding for the Centre. A number of existing statutes of international organizations generally focus on the number of ratifications.<sup>9</sup>

#### *Article 13 - Entry into force*

*1. This Protocol shall enter into force six months following the date upon which the following conditions are met:*

*(a) [Number to be determined, including the possibility of requiring a certain number from each group of Members] instruments of ratification, acceptance, approval or accession have been deposited; and*

*(b) The total amount of contributions that States or regional economic integration organizations that are Parties to the Protocol are obliged to make in accordance with [Annex IV] exceeds [an amount to be determined].*

48. Other thresholds might come into play, such as in article 21(1) of the Paris Agreement on Climate Change, which provides that the Agreement shall enter into force after at least 55 Parties to the Convention, accounting for at least 55 percent of global greenhouse gas emissions, have deposited their instruments of ratification, acceptance, approval, or accession. This type of threshold ensures that key contributors are on board and that the agreement has the broad support needed to achieve its objectives.

49. Other organisations foresee both a threshold for ratifications and a specified budgetary requirement before they can become effective, as follows.

#### *Advisory Centre on WTO Law*

50. The Agreement establishing the ACWL sets specific conditions for ACWL to come into effect. According to article 13, the Agreement entered into force 30 days after three key conditions were met: (i) the twentieth instrument of ratification, acceptance, or approval was deposited; (ii) the total one-time contributions to the Centre's endowment fund exceeded 6 million USD; and (iii) the total annual contributions to the Centre exceeded 6 million USD. These conditions ensured that the Centre had both sufficient membership and the necessary financial support to carry out its operations. Additionally, article 5 of the Agreement outlines the

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<sup>9</sup> For adjudicatory bodies, a higher threshold was required. For example, the International Criminal Court (ICC) established under the Rome Statute required 60 instruments of ratification, acceptance, approval, or accession for entry into force, as outlined in article 126, see <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court>. Similarly, article 308 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) that established the International Tribunal for the Law of the Sea (ITLOS) provides that the Convention would enter into force 12 months after the deposit of the sixtieth instrument of ratification or accession, see <https://www.itlos.org/en/main/basic-texts-and-other-documents/>.

financial structure of the Centre, stating that its annual budget is funded by the revenue generated from the Centre's endowment fund, fees for services rendered, and any voluntary contributions made by Governments, international organizations, or private sponsors. This means that there are no mandatory or regular contributions required for the Centre's budget. Instead, the Centre primarily relies on returns from its endowment fund, the fees it charges for its services, and voluntary contributions from external sources such as governments and private sponsors. However, the Centre's reliance on voluntary contributions and the performance of its endowment fund have presented some challenges, particularly as endowment returns were lower than expected.

#### *International Organization for Migration (IOM)*

51. The Constitution of the IOM<sup>10</sup> came into force as per article 29. It stipulates that the Constitution becomes effective for Governments that are Members of the Intergovernmental Committee for European Migration (ICEM) once they have formally accepted it through their respective constitutional processes. This acceptance must meet two conditions: at least two-thirds of the Members of the Committee and Members whose contributions represent at least 75% of the administrative part of the budget must communicate their acceptance to the Director.

52. The IOM's financial structure is divided into two parts: the administrative and operational budgets. The first covers the IOM's core expenses, which are financed through mandatory monetary contributions from Member States. These contributions are determined by a rate agreed upon by the IOM Council. In contrast, the operational budget finances project-related activities and is supported by voluntary contributions. This distinction allows the IOM to manage its core administrative needs through predictable funding while maintaining flexibility to finance operational activities based on voluntary support.

#### *Asian Infrastructure Investment Bank (AIIB)*

53. The entry into force<sup>11</sup> of the AIIB is outlined in article 59 of its founding Agreement. According to this article, the Agreement becomes effective when at least ten signatory countries have deposited their instruments of ratification, acceptance, or approval. Additionally, these ten signatories must collectively hold initial subscriptions that make up at least fifty percent of the total authorized capital subscriptions, as specified in Schedule A of the Agreement. Schedule A details the initial capital subscriptions from both regional and non-regional members, amounting to a grand total of USD 100,000 million. Therefore, for the AIIB to officially commence operations, a minimum of ten countries must not only agree to the terms by depositing their ratification instruments but also contribute a combined total of at least USD 50,000 million in initial subscriptions. Requirement ensures that the AIIB has sufficient financial backing before it begins its mission to finance infrastructure projects.

### **Way forward**

54. The threshold for entry into force of an institution such as the Advisory Centre should balance the need for sufficient membership with adequate funding. Requiring a high number of ratifications and accessions would help ensure that the financial obligations are widely distributed among the Members but may delay the operation of the Centre. Alternatively, as had been the case for ACWL, it may be

<sup>10</sup> See <https://www.iom.int/iom-constitution>.

<sup>11</sup> See [https://www.aiib.org/en/about-aiib/basic-documents/\\_download/articles-of-agreement/basic\\_document\\_english-bank\\_articles\\_of\\_agreement.pdf](https://www.aiib.org/en/about-aiib/basic-documents/_download/articles-of-agreement/basic_document_english-bank_articles_of_agreement.pdf).

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possible to combine thresholds, requiring both a specified number of ratifications and a defined financial commitment for a certain period. Participants may wish to discuss whether such a dual threshold—combining both membership and financial commitment—should be considered.

55. With regard to article 13(1)(a), reference should be made to possible changes to the classification of Members ([AC/OP/BD.9](#))

56. With regard to article 13(1)(b), adjustments may need to be made if the annual budget were to be distributed among Members rather than amounts fixed in Annex IV. In any case, the number of Members should be substantively high to ensure a critical mass of support and engagement. It may also be necessary to link it with the level of financial commitments pledged by Members (donations). For example, the combined commitments should amount to at least 50% of the anticipated budget for the first five years of operation, with the remaining budget to be covered through membership dues. Alternatively, a specific monetary threshold could be established (see [A/79/17](#), para. 140).