Operationalization of the Advisory Centre on
International Investment Dispute Resolution

Classification of the Members of the Advisory Centre

I. Introduction

1. The classification of members of the Advisory Centre ("Members") is a critical aspect of the Statute, as it establishes the priority to be given to the category of Members in accessing the services of the Centre (article 2 and 7) and determines the contributions and fees to be paid by that Member (article 8). The Statue of the Advisory Centre foresees that States or regional economic integration organizations may become Members of the Advisory Centre and that they will be categorized into three groups to be listed under Annexes I to III.

2. The following lists the relevant articles of the Statute.

Article 2 Objectives

2. The Advisory Centre aims to enhance the capacity of States and regional economic integration organizations in preventing and handling international investment disputes, <u>in particular least developed countries and developing countries</u>.

Article 4 Membership

1. <u>A State or a regional economic integration organization</u> may become a Member of the Advisory Centre in accordance with article 12.

2. Each Member is entitled to the services of the Advisory Centre, and has the obligations, as set out in this Protocol and the regulations adopted by the Governing Committee.

3. For the purposes of this Protocol, <u>each Member shall be categorized into [Annex I, Annex II or Annex III]</u>. This categorization is without prejudice to classifications in other instruments or other organizations.

Article 5 Structure

Executive Committee

5. The Executive Committee shall consist of [six] members. The Executive Director shall also serve ex officio on the Executive Committee. <u>Each group of Members listed in [Annexes I, II and III] shall nominate [two] members</u> of the Executive Committee for appointment by the Governing Committee. The members of the Executive Committee shall serve in their personal capacity and shall be selected on the basis of their professional qualifications, including in particular in international investment dispute resolution.

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

3. In providing the services in paragraph 1, the Advisory Centre shall, in principle, give <u>priority to Members listed in [Annex I] followed by Members listed in [Annex II] in accordance with the regulations adopted by the Governing</u>

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.

Article 8 Financing

2. Each Member shall make financial contributions in accordance with [Annex IV]. If a Member is in default of its contributions, ….

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

(a) …

(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]. …

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 to require 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].

Article 15 Amendments to the Protocol and Annexes

Amendments to the Annexes

3. Any Member, the Executive Committee or the Executive Director may submit a proposal to amend [Annexes I, II, III or IV] to the Governing Committee. The proposal shall be promptly communicated to all Members.

4. The Governing Committee shall adopt amendments to [Annexes I, II and III] in accordance with article 5, paragraphs 7 and 8, only:

(a) To reflect in [Annexes I and II], any changes to the list of least developed countries adopted by the United Nations General Assembly;

(b) To include in [Annex II or III], a State listed in [Annex I] which requests to be thus included;

(c) To include in [Annex III], a State listed in [Annex II] which requests to be thus included; or

(d) [To refer to the possible use of objective criteria to be developed for classifying Members into [Annexes II and III] in making adjustments thereto].

5. The Governing Committee shall endeavour to adopt amendments to [Annex IV] by consensus. If a decision cannot be made by consensus, the amendment shall be submitted to a vote to each group of Members listed in [Annexes I, II and III]. The amendment shall be adopted when each group of Members adopts the amendment in accordance with article 5, paragraphs 7 and 8.

Annexes

Annex I

[This Annex would reflect <u>the list of least developed countries</u> adopted by the United Nations General Assembly when the statute is finalized.]

[Annexes II and III]

[The other Annexes would list the member States of the United Nations not listed in Annex I. Those States would be categorized in accordance with the objective criteria to be developed for that purpose. The lists would also include regional economic integration organizations.]

Annex [IV] – Scale of minimum contributions

	Annual contribution	*Multi-year contribution*	*One-time contribution*
Members listed in [Annex I]			
Members listed in [Annex II]			
Members listed in [Annex III]			

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3. The classification of Members envisaged under article 4(3) is also relevant for the governance structure of the Advisory Centre, in particular the Executive Committee (article 5), the entry into force of the Statute (article 13) and the amendment procedure including the scale of minimum contribution contained in Annex IV (article 15). These factors are likely to influence the decision-making of States and REIOs when deciding to become a Member of the Advisory Centre, which calls for an in-depth discussion.

II. Examples of existing classifications

4. Internationals organizations classify their members or countries into categories for various purposes, for example, to assess geographic representation, to address economic disparities, to tailor policies, to determine eligibility for support and for statistical purposes. These classifications allow international organizations to manage their operations effectively, ensure balanced geographical representation, and address the diverse needs of its members or countries concerned. The following provides some examples.

United Nations (UN)

5. The United Nations uses different classifications to address different aspects of its work. One such area is the compilation, analysis and management of economic conditions and challenges faced by specific groups of countries, such as least developed countries (LDCs), landlocked developing countries (LLDCs) and small island developing states (SIDS).[1]

6. Historically, the terms "developed regions" and "developing regions" were used for statistical purposes. The historical classification of developed and developing countries as of December 2021 and updated as of May 2022 can be found at

[1] For detailed information on these classifications, see https://unstats.un.org/unsd/methodology/m49/

https://unstats.un.org/unsd/methodology/m49/historical-classification-of-developedand-developing-regions.xlsx. The indicative list of States in the draft statute presented to the Commission (A/CN.9/1184, pp. 10-11) was prepared based on the classification.

7. The group of LDCs is defined through a process managed by the Committee for Development Policy (CDP), with the General Assembly endorsing the classification framework and procedures [2] and ECOSOC endorsing the findings of the CDP.[3] LDCs are characterized by (i) low levels of income, (ii) low score of the human assets index, and (iii) economic and environmental vulnerability. This classification, established by the General Assembly in 1971,[4] acknowledges the need for special support measures to assist the most disadvantaged countries among the developing regions. The formal designation of LDCs is reviewed every three years. Countries must meet specific thresholds in these criteria to be either included in or removed from the LDC category and the designation is based on objective thresholds. This formal process ensures that international support and development efforts are effectively targeted to those countries facing the most significant challenges.[5] The structured review process also ensures that the classification remains relevant and consistently applied across international organizations, including by the Office of the High Representative for LDCs (OHRLLS), UNCTAD, WTO and the World Bank.

8. The United Nations Development Programme (UNDP) uses the Human Development Index (HDI) to classify countries. The HDI is a composite index that measures country's average achievements in three basic aspects of human development: (i) longevity: measured by life expectancy at birth; (ii) education: assessed by years of schooling for adults aged 25 years or more and expected years of schooling for children entering school; and (iii) income: evaluated by the gross national income (GNI) per capita. Countries are categorized into four categories based on their HDI scores: very high, high, medium, or low human development. This classification helps in understanding and comparing the development levels of different countries, guiding policy and resource allocation for effective planning of projects, and monitoring of progress toward global development goals.[6]

9. UNCTAD aims to promote trade and development globally with primary focus on the interests and challenges of developing countries.[7] UNCTAD categorizes countries based on several criteria, including by geographic location as well as development status and economic criteria to help guide policy and reporting, particularly in the context of global development goals.[8] Regarding the development status, economies are classified as developing (1400) or developed (1500) based on the distinction maintained by the United Nations Statistics Division (see para. 6 above). Developing economies are further subdivided by GDP per-capita income, as follows: (i) high-income developing economies (more than US$5,907); (ii) middle-

[2] See Resolution adopted by the General Assembly on 21 December 2012, A/RES/67/221, "Smooth transition for countries graduating from the list of least developed countries", para. 21.
[3] See also Resolution adopted by the Economic and Social Council on 5 June 2024, 2024/7 on the Report of the Committee for Development Policy on its twenty-sixth session, endorsing the findings by CDP.
[4] See Resolution adopted by the General Assembly adopted on 18 November 1971, 2768 (XXVI) Identification of the least developed countries among the developed countries.
[5] For more information on LDCs, criteria, benefits see https://www.un.org/ohrlls/content/ldc-category. See also regarding the classification itself: Handbook on the Least Developed Country Category: Inclusion, Graduation and Special Support Measures, 2024, 5th edition, available at: https://www.un.org/development/desa/dpad/publication/handbook-on-the-least-developed-country-category-inclusion-graduation-and-special-support-measures-fifth-edition/
[6] See https://hdr.undp.org/data-center/documentation-and-downloads; Human Development Index and its components Human Development Index and its components.
[7] GA Res 1995 (XIX).
[8] See for a more comprehensive explanation on classification: https://unctadstat.unctad.org/EN/Classifications.html

income developing economies (between US$1,313 and US$5,907) and (iii) low-income developing economies (less than US$1,313).[9]

World Bank

10. The World Bank classifies countries into income groups based on gross national income (GNI) per capita using the Atlas method. This method adjusts for exchange rates and inflation to provide a more accurate reflection of a country's income. There are four main categories, as of 1 July 2024: (i) low income (US$1,145 or less); (ii) lower middle income (between US$1,146 to US$4,515); (ii) upper middle income (between US$4,516 to $14,005); and (iv) high income (more than US$14,005).[10] The classification is updated annually to reflect the most recent economic data, and the thresholds are adjusted slightly each year to account for inflation.[11]

11. The classification serves several purposes. It helps determine the eligibility of countries for different types of financial assistance and support, such as concessional loans or grants. For example, lower-income countries are typically eligible for more favourable loan terms from institutions like the International Development Association (IDA). Further, it allows for standardized comparisons of economic performance, development levels, and progress across countries and hence, the World Bank classification is used by international organizations, governments, and donors to tailor development programs, allocate resources, and prioritize interventions based on a country's economic status.

World Trade Organisation (WTO)

12. There are no WTO definitions of “developed” and “developing” countries. Members announce for themselves whether they are “developed” or “developing” countries. However, other members can challenge the decision of a member to make use of provisions available to developing countries.[12]

13. Developing country status in the WTO brings certain rights. There are for example provisions in some WTO Agreements which provide developing countries with longer transition periods before they are required to fully implement the agreement and developing countries can receive technical assistance. That a WTO member announces itself as a developing country does not automatically mean that it will benefit from the unilateral preference schemes of some of the developed country members such as the Generalized System of Preferences (GSP). In practice, it is the preference giving country which decides the list of developing countries that will benefit from the preferences.

Advisory Centre on WTO Law (ACWL)

14. The ACWL classifies states primarily based on their share of world trade and their per capita income to provide tailored legal support and capacity-building services. The ACWL's classification is as follows.

15. LDCs consists of countries that are recognized by the United Nations. LDCs are entitled to free legal advice from the ACWL and benefit from the lowest fees for litigation services before the WTO. LDCs are also entitled to the services of the ACWL without having to become a member of ACWL or contribute to the Endowment Fund.

16. Developing countries that are WTO members, but not classified as LDCs are eligible for subsidized services. The ACWL classifies these countries into three income categories based on their GNI per capita, which determines the level of fees

[9] These are the data as of June 2024: https://unctadstat.unctad.org/EN/Classifications/US_EconomicGroupings_Criteria.pdf

[10] See https://datahelpdesk.worldbank.org/knowledgebase/articles/906519

[11] See https://datahelpdesk.worldbank.org/knowledgebase/topics/19280-country-classification

[12] See https://www.wto.org/english/tratop_e/devel_e/d1who_e.htm.

they pay for legal assistance and litigation services. The classification system ensures that lower-income developing countries pay reduced fees compared to higher-income developing countries. The categories are: (i) Category A: low-income developing countries (pay the lowest fees); (ii) Category B: middle-income developing countries (pay moderate fees); and (iii) Category C: higher-income developing countries (pay the highest fees).

17. The purpose of the classification is to ensure that countries with less financial resources, such as LDCs and low-income developing countries, can access affordable or free legal advice and representation in WTO dispute settlement process. The classification therefore determines the fees that countries are charged for legal assistance. LDCs benefit from free advice and significantly reduced rates for litigation services, while developing countries pay on a sliding scale according to their income classification. The ACWL also uses this classification to prioritize capacity-building services. LDCs and lower income developing countries may receive more extensive support for training government officials in WTO law, helping them build the expertise necessary for effective participation in the multilateral trading system.

International Monetary Fund (IMF)

18. The IMF classifies countries primarily based on economic development and income levels in its World Economic Outlook (WEO).[13] It groups countries into two broad categories: Advanced Economies and Emerging Market and Developing Economies (EMDEs), with the latter covering a wide range of development levels. The IMF also refers to low-income countries (LICs), as defined by the World Bank, for certain policies and lending programs (extended credit facility, standby credit facility and rapid credit facility).[14]

19. The IMF assists LICs with financial and other support. The IMF's surveillance program provides continuous monitoring of member countries' economic and financial policies. Discussions with country authorities focus on the impact of their economic policies on stability and growth and the desirable policy measures. Capacity building typically focuses on how LICs can boost domestic revenues, manage public finances and monetary policy, regulate their financial system, and develop statistical systems.

Organisation for Economic Co-operation and Development (OECD)

20. The OECD, which currently has 38 members,[15] assesses countries on their eligibility for membership. Accessions criteria focus on a country's commitment to a market economy, democratic governance, and the capacity to contribute to the organization's objectives. Potential members undergo a rigorous review process, including assessments of economic policies, social welfare systems, and adherence to OECD standards.[16]

21. An example of classification at OECD is as follows. Participants to the Arrangement on Officially Supported Export Credits (the "Arrangement")[17] classify countries to reflect the risk that a country might not be able to repay its external debt. The country risk encompasses transfer and convertibility risk (i.e. the risk that a government imposes capital or exchange controls that prevent an entity from converting local currency into foreign currency and/or transferring funds to creditors located outside the country) and cases of force majeure (e.g. war, expropriation, revolution, civil disturbance, floods, earthquakes). The Arrangement places limitations on the financing terms and conditions to be applied when providing

[13] See for further information: https://www.imf.org/en/publications/weo

[14] See https://www.oecd.org/en/about/members-partners.html

[15] See IMF support for low-income countries, available at: https://www.imf.org/en/About/Factsheets/IMF-Support-for-Low-Income-Countries

[16] See https://www.oecd.org/en/about/members-partners.html

[17] The Participants to the Arrangement are Australia, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland, Türkiye, the United Kingdom, and the United States.

officially supported export credits and tied aid. The country risk classifications[18] determine minimum premium rates and facilitate safe export credit provision under the WTO's Agreement on Subsidies and Countervailing Measures. The Participants to the Arrangement neither endorse nor encourage the use of the classification for any other purpose.

Group of 77 (G77)

22. The Group of 77 G77 is a coalition of developing countries established in 1964. It initially consisted of 77 countries, but has since expanded to include more than 130 countries.[19] To become a member of the G77, a country typically needs to be a developing nation and a member of the United Nations. The primary goal of the G77 is to promote the collective economic interests of its members and enhance their joint negotiating capacity within the United Nations. The group focuses on issues such as economic development, poverty eradication, and addressing disparities between developed and developing countries.

23. China provides consistent political support and financial contributions to the G77, but it does not consider itself a member. Despite this, official statements from the G77 are often issued in the name of "The Group of 77 and China" to reflect China's involvement and support.

G20

24. The G20 is a forum of international economic cooperation and its membership comprises a mix of the world's largest advanced and emerging economies. It is said that G20 members represent about two-thirds of the world's population, 85 per cent of global gross domestic product and over 75 per cent of global trade.[20]

25. Each year the G20 president invites several guest countries to participate in G20 events and contribute to the agenda. In 2024, the host Brazil welcomed Angola, Egypt, Nigeria, Norway, Portugal, Singapore, Spain and United Arab Emirates as guest countries. A number of international organizations are also invited to participate in the forum.

III. Assessed contribution approach for budget purposes

26. As noted, one of the aims for classifying Members of the Advisory Centre is to determine the contributions to be paid by that Member (article 8). Annex IV of the Statute foresees that the minimum contribution of each category of Members would be set forth in the Statute. By setting a fixed amount of contribution with the possibility to make payments through different methods (annual, multi-year and one-time), it aimed to clarify the financial obligation of the Member. The ACWL operates in a similar fashion.[21]

27. However, it may not always be possible or reasonable to set a fixed amount as the budget of the Advisory Centre is likely to change over time. Expenditures will fluctuate depending on the services to be provided, which would also depend on the number of Members, particularly the beneficiaries. Income will also change

[18] See https://www.oecd.org/en/topics/sub-issues/country-risk-classification.html

[19] See https://www.g77.org/doc/members.html

[20] See https://www.g20.org/en/about-the-g20. The members of the G20 are African Union, Argentina, Australia, Brazil, Canada, China, European Union, France, Germany, India, Indonesia, Italy, Japan, Mexico, Republic of Korea, Russia, Saudi Arabia, South Africa, Türkiye, the United Kingdom, and the United States of America.

[21] Annex I of the Agreement establishing the ACWL provides the minimum contributions of developed country members to the Endowment Fund and to the annual budget during the first five years and Annex II provides those for developing country members and members with an economy in transition. The classification of countries in Annex II into Group A, B and C Members was made on the basis of their share of world trade with an upward correction reflecting their per capita income. Available at https://www.acwl.ch/basic-documents/.

depending on the actual contribution by Members as well as voluntary contributions received by the Advisory Centre. As many international organizations face similar challenges, they often incorporate mechanisms to regularly assess contributions among its member rather than fixing the amount of the contributions.

United Nations

28. The regular budget of the UN is financed through contributions from its Member States, as outlined in Article 17(2) of the UN Charter. General Assembly Resolution A/RES/76/238 establishes the elements and factors that determine how the scale of assessments for the UN's regular budget is calculated, based on States' capacity to pay, with various adjustments to ensure fairness. Specifically, it sets the methodology to calculate each Member State's financial contribution to the UN budget, which includes factors such as GNI, market exchange rates, and statistical base periods of three and six years. Additionally, it provides for adjustments to the scale of assessments, such as debt-burden adjustments, low per capita income adjustments, and provisions to avoid excessive fluctuations in assessments, defines the minimum contribution rate at 0.001% and sets caps for certain Member States. LDCs have a maximum rate of 0.01%, and no country is expected to contribute more than 22% of the total budget.

WTO

29. The WTO is financed primarily through contributions from its 164 member states. Each member contributes to the WTO's budget based on a financial formula based on the States share of international trade, to help ensure that contributions are proportional to the economic weight of each member.[22]

IMF

30. The IMF's budget is primarily funded through contributions from its 190 member countries, based on a quota system. Quotas reflect each country's economic size, considering factors like GDP and trade levels. These quotas determine the financial contributions to the IMF, the voting power within the organization and the amount a country can borrow during crises.[23]

31. As shown above, budget is allocated among the members of international organizations based on different formula or criteria specific to each organization. Discussions may focus on whether the contributions should be fixed based on the classification or assessed regularly to adjust to the necessary budget.

32. In that context, it should be noted that Article 8(3)(b) provides that 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]. Therefore, there may still be a need to classify Members for this purpose.

III. Issues for discussion

Issue 1: Whether the priority to be given should be linked to the anticipated contribution to the budget

33. According to the Statute, priority with regard to legal advice and support would be given to Members listed in Annex I, followed by those listed in Annex II and then those listed in Annex III. On the other hand, the minimum contribution to the budget

[22] See the latest available WTO members' contributions to the consolidated budget 2021, https://www.wto.org/english/thewto_e/secre_e/budget_e/budget2022_member_contribution_e.pdf

[23] See https://www.imf.org/en/About/Factsheets/Sheets/2022/IMF-Quotas

(as well as fees) is in the reverse order with Members listed in Annex III to pay more than those in Annex II, which would pay more than those in Annex I.

34. In terms of services, Members in Annex III, while contributing more to the budget of the Advisory Centre, are not expected to benefit from all of the services, particularly those relating to representation and legal advice. However, fees to be paid by the beneficiaries of such services would contribute to the budget. It is also anticipated that voluntary contribution by donors may constitute substantive portion of the Advisory Centre budget.

35. Discussions could first take place on whether the two aspects (priority and minimum contribution) should continue to be linked, meaning that the classification would impact both aspects. This is because it may be possible to envisage one classification for priority purposes and another for determining the contribution/fees.

Issue 2: Whether Annexes I to III should contain a pre-determined list of States as potential Members of the Advisory Centre

36. Discussions may also focus on whether Annexes I to III should be populated by categorizing an existing list of States (for example, the list of Member States of the United Nations). Such advance classification would provide clarity to States on their rights and obligations as they consider becoming Member of the Advisory Centre. Such clarity would be particularly important for obtaining domestic approval to join the Advisory Centre and making the necessary financial contribution.

37. The challenges may arise in identifying the list of States to use for such purpose (for example, whether States not members of the United Nations could also be listed), how to categorize REIOs and whether the amendment process in article 15(3) and (4) could address the need to regularly update the classification (including when a State wishing to become a Member requests reclassification of its status as a candidate).

38. An alternative approach would be to populate Annex I to III with States as they become Members of the Advisory Centre (for example, when they sign the Protocol or accede to the Protocol or when the Protocol enters into force). While such a classification would ensure flexibility and not assume that all States listed were expected to become Members of the Advisory Centre, it may create uncertainty for States as they consider the rights and obligations of becoming a Member. For this approach to be effective, the process for classifying States would need to be clearly set forth in the regulations, including who will make the determination, how the determination would be made and on what basis. For that purpose, it may be necessary to identify objective criteria or an existing list that would form the basis of the classification. This could alleviate some of the uncertainty concerns.

Issue 3: Classification of REIOs

39. The Statute tentatively indicates that REIOs would be included in Annexes II or III. However, it would not be reasonable to list all REIOs that are potential Members. It is more likely that they will need to be classified as they become a Member of the Advisory Centre and how to do may be discussed. For example, the classification of the REIO could reflect the profiles of its constituent member States, including the Annexes in which those States are listed.

Issue 4: Classification for the purposes of priority – objective criteria

40. Annex I would reflect the list of LDCs at the time the Statute is finalized and adopted by the General Assembly. Any subsequent changes to the list of LDCs would be reflected via the amendment mechanism under article 15(4)(a). This would include those States that graduate from the LDC list and those that are newly added to the list, meaning that it may also result in amendments to Annexes II and quite unlikely to Annex III.

41. Article 15(4)(d) foresees the development of objective criteria for classifying Members and making adjustments thereto. Discussions may be held on which of the criteria used by international organizations would be most relevant for this purpose. Discussions may also focus on how the remaining States/Members (other than LDCs) should be classified, including into how many categories and the criteria to be used.

42. While one of the objectives of such classification would be to identify "developing countries" as referred to in article 2(2) of the Statute, it does not necessarily need to be linked with the economic status of a country considering that article 7(3) stipulates that priority should be given to Members listed in Annex I followed by those in Annex II. In other words, discussions may focus on which States should be given priority after LDCs.

43. For example, the list of Members in Annex II could be populated by taking into account factors such as experience with ISDS cases, potential number of cases (based on investment trends and sectoral vulnerabilities), amount in dispute (both current and projected) as well as financial capacity to handle disputes. These may be further elaborated in the regulations adopted by the Governing Committee. Data for these criteria could be collected from various sources, including the UNCTAD webpage[24], which offers a comprehensive list of known ISDS cases. Such a list would be tailored to support States that need the services of the Advisory Centre most, based not only on their economic status but also on their exposure to ISDS.

44. However, it might be difficult to classify Member based on such criteria, also due to the dynamic nature of investment trends, and reassessment thereof would be a burden on the Advisory Centre's workload. As such, similar to the LDC list, it may be reasonable to refer to an existing classification by other international organizations as referred to in chapter II.

Issue 5: Self-assessment

45. The Statue allows for the possibility of self-reassessment by Members, but only when a Member requests its priority to be downgraded to the next level and agrees to pay a higher amount of contribution (article 15(4)(b) and (c)). In this context, discussions may focus on the extent to which potential Members could seek reclassification (if already classified into one of the Annexes), either through article 15(4) or through a separate mechanism.

46. Objections to any self-assessment or reassessment by another Member would need to be expressed at the Governing Committee and through its decision-making process under article 5(7) and (8). Simply put, a self-assessment by a Member would not be allowed if more than one-fifth of the Members present and voting object to that self-assessment.

Issue 6: Capacity to pay

47. Suggestions had been made that a Member's capacity to pay should also be a factor to consider. Discussions may be held on whether the capacity should be used to classify Members for the purposes of the priority or for the purposes of allocating the budget or both.

48. Considering that the United Nations assessed contribution takes into account the capacity to pay, the following chart shows the expected contributions of Members of the Advisory Centre based on the UN scale.

49. For illustration purposes, it is assumed that there are twenty (20) Members of the Advisory Centre, seven (7) of which are those that had expressed an interest in hosting the Advisory Centre. The remaining thirteen (13) Members are presumed to be the following: five (5) contributing 0.0001% of the UN budget, five (5) contributing 0.5%

[24] UNCTAD Investment Policy Hub, available at: https://investmentpolicy.unctad.org/

and three (3) contributing 3%. It is also presumed that the annual budget of the Advisory Centre is 5 million USD.

50. The third and fourth columns indicate how the budget of the Advisory Centre would be allocated among the 20 Members if the budget of 5 million USD is allocated based on the UN scale of assessments. This shows a large gap of contributions from 307 USD (by those contributing 0.0001% of the UN budget) to 1.33 million USD (by France, contributing 4.318$ of the UN budget).

State	UN assessed percentage	AC assessed percetange	Budget 5 Mio	Cap of 10%	Budget of 5 Mio	Cap of 20%	Budget of 5 Mio	Cap min 1%; Cap max 20%	Budget 5 Mio
Armenia	0.007%	0.04%	$ 2,150	0.15%	$ 7,576	0.05%	$ 2,371	1%	$ 50,000
Côte d'Ivoire	0.022%	0.14%	$ 6,757	0.48%	$ 23,810	0.15%	$ 7,453	1%	$ 50,000
Democratic Republic of the	0.010%	0.06%	$ 3,071	0.22%	$ 10,823	0.07%	$ 3,388	1%	$ 50,000
France	4.318%	26.52%	$ 1,326,167	10.00%	$ 500,000	20%	$ 1,000,000	20%	$ 1,000,000
Ghana	0.024%	0.15%	$ 7,371	0.52%	$ 25,974	0.16%	$ 8,130	1%	$ 50,000
Paraguay	0.026%	0.16%	$ 7,985	0.56%	$ 28,139	0.18%	$ 8,808	1%	$ 50,000
Thailand	0.368%	2.26%	$ 113,022	7.97%	$ 398,268	2%	$ 124,661	1%	$ 50,000
Country A	0.001%	0.01%	$ 307	0.02%	$ 1,082	0.01%	$ 339	1%	$ 50,000
Country B	0.001%	0.01%	$ 307	0.02%	$ 1,082	0.01%	$ 339	1%	$ 50,000
Country C	0.001%	0.01%	$ 307	0.02%	$ 1,082	0.01%	$ 339	1%	$ 50,000
Country D	0.001%	0.01%	$ 307	0.02%	$ 1,082	0.01%	$ 339	1%	$ 50,000
Country E	0.001%	0.01%	$ 307	0.02%	$ 1,082	0.01%	$ 339	1%	$ 50,000
Country F	0.5%	3.07%	$ 153,563	10%	$ 500,000	3.39%	$ 169,377	2%	$ 90,000
Country G	0.5%	3.07%	$ 153,563	10%	$ 500,000	3.39%	$ 169,377	2%	$ 90,000
Country H	0.5%	3.07%	$ 153,563	10%	$ 500,000	3.39%	$ 169,377	2%	$ 90,000
Country I	0.5%	3.07%	$ 153,563	10%	$ 500,000	3.39%	$ 169,377	2%	$ 90,000
Country J	0.5%	3.07%	$ 153,563	10%	$ 500,000	3.39%	$ 169,377	2%	$ 90,000
Country K	3.0%	18.43%	$ 921,376	10%	$ 500,000	20%	$ 1,000,000	20%	$ 1,000,000
Country L	3.0%	18.43%	$ 921,376	10%	$ 500,000	20%	$ 1,000,000	20%	$ 1,000,000
Country M	3.0%	18.43%	$ 921,376	10%	$ 500,000	20%	$ 1,000,000	20%	$ 1,000,000
		100%	100.00%	100%	$ 5,000,000	100%	$ 5,000,000 *	100%	$ 5,000,000
						*the number has been rounded			

51. To rectify this gap, the fifth and sixth column imposes a maximum contribution cap of 10% (meaning that a Member is not expected to pay more than 10% of the Advisory Centre budget). This reduces the contributions expected of the four (4) Members that contribute 3% or more of the UN budget and increases the contributions expected of the five (5) Members that contribute 0.5% of the UN budget. All nine (9) Members would each pay 500,000 USD contributing to 90% of the overall budget.

52. The seventh and eighth columns imposes a maximum contribution cap of 20%. This reduces the contribution of France to 1 million USD but increases the contribution of the three (3) Members that contribute 3% of the UN budget. All four (4) Members will each pay 20% of the budget (1 million USD) with the remaining 16 Members covering 20% of the budget.

53. The ninth and tenth column further imposes a minimum contribution of 1% for each Members increasing the amount of contributions expected of eleven (11) Members that contribute less than 0.368% of the UN budget. This, in hand, reduces the contributions expected of the five (5) Members that contribute 0.5% of the UN budget to 90,000 USD.

54. Discussions may be held on whether and how to impose minimum contribution rates as well as maximum contribution caps. Due consideration may also need to be taken that REIOs are not due paying members of the United Nations and their contribution would need to be determined separately.

Other examples of budget allocation

55. The following chart outlines possible contributions based on two existing classifications: the World Bank (WB) classification and the United Nations Statistics Division (UNSD) classification. Again, the budget of the Advisory Centre is assumed to be 5 million USD and that States that had expressed an interest in hosting the Advisory Centre would become Members.

56. Based on the World Bank classification, it would be possible to allocate 14.25% of the Advisory Centre budget to each of the four (4) high-income countries, 5% to

the each of the six (6) upper-middle-income countries, 2.5% to each of the four (4) lower-middle income countries and 0.5% to each of the six (6) low-income countries.

57. Based on the United Nations historical classification, it would be possible to allocate 11% of the Advisory Centre budget to each of the three (4) developed states, 5% to each of the ten (10) developing states and 1% to each of the six (6) LDCs.

State	Classification WB	% to be contributed	Budget 5 Mio	Historic classification UNSD	% to be contributed	Budget 5 Mio
Armenia	Upper middle income	5	250000	Developing	5	250000
Côte d'Ivoire	Lower middle income	2.5	125000	Developing	5	250000
Democratic Republic of the Congo	Low income	0.5	25000	LDC	1	50000
France	High income	14.25	712500	Developed	11	550000
Ghana	Lower middle income	2.5	125000	Developing	5	250000
Paraguay	Upper middle income	5	250000	Developing	5	250000
Thailand	Upper middle income	5	250000	Developing	5	250000
Country A	Low income	0.5	25000	LDC	1	50000
Country B	Low income	0.5	25000	LDC	1	50000
Country C	Low income	0.5	25000	LDC	1	50000
Country D	Low income	0.5	25000	LDC	1	50000
Country E	Low income	0.5	25000	LDC	1	50000
Country F	Lower middle income	2.5	125000	Developing	5	250000
Country G	Lower middle income	2.5	125000	Developing	5	250000
Country H	Upper middle income	5	250000	Developing	5	250000
Country I	Upper middle income	5	250000	Developing	5	250000
Country J	Upper middle income	5	250000	Developing	5	250000
Country K	High income	14.25	712500	Developed	11	550000
Country L	High income	14.25	712500	Developed	11	550000
Country M	High income	14.25	712500	Developed	11	550000
		100	5000000		100	5000000